

## **CHAPTER 815. UNEMPLOYMENT INSURANCE**

**PROPOSED RULES TO BE PUBLISHED IN THE *TEXAS REGISTER*. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE OFFICE OF THE SECRETARY OF STATE.**

ON **JUNE 2, 2026**, THE TEXAS WORKFORCE COMMISSION PROPOSED THE RULES BELOW WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

Estimated Publication Date of the Proposal in the *Texas Register*: **June 19, 2026**

Estimated End of Comment Period: **July 20, 2026**

The Texas Workforce Commission (TWC) proposes amendments to the following section of Chapter 815, relating to Unemployment Insurance:

Subchapter B. Benefits, Claims, and Appeals, §815.16

### **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

The purpose of the proposed Chapter 815 rule change is to add clear guidelines on the applicability of time zone differences in determining whether a petitioner has shown good cause for failure to appear at a hearing, pursuant to the provisions of §815.16(5)(B).

This proposed amendment to the rule formalizes and modernizes the intent of TWC Appeals Precedent Case No. 93-014606-10\*-101993 (MS 30.00(4)), a Commission precedent initially adopted in 1993 when telephone conference hearings were less frequent and the total volume of hearings was significantly lower. Telephone conference calls are now the default method of conducting hearings, and the consistent increase in the total number of hearings makes consideration of time zones generally applicable.

Also, with the increase in total hearing volume, the physical locations of hearing officers are no longer limited to the Central time zone used in hearing notices. The proposed rule change modernizes the guidelines by specifying that the good cause analysis relies on the difference between the petitioner's time zone and the time zone used in the hearing notice (Central time zone), regardless of the hearing officer's time zone.

### **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

(Note: Minor editorial changes are made that do not change the meaning of the rule and, therefore, are not discussed in the Explanation of Individual Provisions.)

#### **SUBCHAPTER B. BENEFITS, CLAIMS, AND APPEALS**

TWC proposes the following amendments to Subchapter B:

##### **§815.16. Appeals to Appeal Tribunals from Determinations**

Section 815.16 is amended to add paragraph (5)(D) to define the circumstances under which a time zone difference between the petitioner's location and the time published in the hearing

notice establish good cause for the petitioner to fail to participate in a hearing. Good cause for missing a prior hearing may be established if the petitioner makes a good faith effort to participate in the hearing but calls in untimely solely because of a time zone difference between the petitioner's location and the (Central) time zone expressed in the hearing notice.

### **PART III. IMPACT STATEMENTS**

Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the proposed rule will be in effect, the following statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the proposed rule.

There are no estimated cost reductions to the state and to local governments as a result of enforcing or administering the proposed rule.

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the proposed rule.

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the proposed rule.

There are no anticipated economic costs to individuals required to comply with the proposed rule.

There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural communities as a result of enforcing or administering the proposed rule.

Based on the analyses required by Texas Government Code, §2001.024, TWC has determined that the requirement to repeal or amend a rule, as required by Texas Government Code, §2001.0045, does not apply to this rulemaking.

#### Takings Impact Assessment

Under Texas Government Code, §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the US Constitution or the Texas Constitution, §17 or §19, Article I, or restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action, and is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect. TWC completed a Takings Impact Assessment for the proposed rulemaking under Texas Government Code, §2007.043. The primary purpose of this proposed rulemaking, as discussed elsewhere in this preamble, is to add clear guidelines on the applicability of time zone differences in determining whether a petitioner has shown good cause for failure to appear at a hearing, pursuant to the provisions of §815.16(5)(B).

The proposed rulemaking will not create any additional burden on private real property or affect private real property in a manner that would require compensation to private real property owners under the US Constitution or the Texas Constitution. The proposal also will not affect private real property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

#### Government Growth Impact Statement

TWC has determined that during the first five years the proposed rule is in effect, it:

- will not create or eliminate a government program;
- will not require the creation or elimination of employee positions;
- will not require an increase or decrease in future legislative appropriations to TWC;
- will not require an increase or decrease in fees paid to TWC;
- will not create a new regulation;
- will not expand, limit, or eliminate an existing regulation;
- will not change the number of individuals subject to the rule; and
- will not positively or adversely affect the state's economy.

#### Economic Impact Statement and Regulatory Flexibility Analysis

TWC has determined that the rule will not have an adverse economic impact on small businesses or rural communities, as the proposed rule places no requirements on small businesses or rural communities.

Mariana Vega, Director, Labor Market Information, has determined that there is not a significant negative impact upon employment conditions in the state as a result of the rule.

Lowell Keig, Director, Unemployment Insurance Division, has determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the proposed rule will be to add clear guidelines on the applicability of time zone differences in determining whether a petitioner has shown good cause for failure to appear at a hearing, pursuant to the provisions of §815.16(5)(B).

TWC hereby certifies that the proposal has been reviewed by legal counsel and found to be within TWC's legal authority to adopt.

#### **PART IV. REQUEST FOR IMPACT INFORMATION**

TWC requests, from any person required to comply with the proposed rule or any other interested person, information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis. Please submit the requested information to [TWCPolicyComments@twc.texas.gov](mailto:TWCPolicyComments@twc.texas.gov) no later than July 20, 2026.

#### **PART V. PUBLIC COMMENTS**

Comments on the proposed rule may be submitted to [TWCPolicyComments@twc.texas.gov](mailto:TWCPolicyComments@twc.texas.gov) and must be received no later than July 20, 2026.

**PART VI. STATUTORY AUTHORITY**

The rule is proposed under:

--Texas Labor Code §212.001, which provides that the manner in which unemployment insurance hearings and appeals are conducted must be in accordance with rules adopted by TWC.

--Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed rule affects Texas Labor Code, Title 4, Chapter 212.

## CHAPTER 815. UNEMPLOYMENT INSURANCE

### SUBCHAPTER B. BENEFITS, CLAIMS, AND APPEALS

#### §815.16. Appeals to Appeal Tribunals from Determinations.

A party of interest may appeal a determination to the appeal tribunal. Appeals shall be in accordance with the terms of this section and, §§815.15, 815.17, and 815.18 of this ~~subchapter~~chapter (relating to Parties with Appeal Rights), ~~§815.17 of this chapter (relating to Appeals to the Commission from Decisions)~~, and ~~§815.18 of this chapter (relating to General Rules for Both Appeal Stages)~~. As used in this section and in §815.17 and §815.18 of this subchapter, the term "party" includes a person's or individual's representative. In this section, a reference to the term "supervisor of appeals" includes the supervisor's designee.

- (1) Presentation of appealed claims.
  - (A) A party appealing from a determination made by an examiner under the provisions of the Act, shall file an appeal by hand delivery, mail, common carrier, facsimile (fax) transmission, or other method approved by the Agency in writing. A written appeal that is sent to the Agency should be addressed to the Texas Workforce Commission, 101 East 15th Street, Austin, Texas, 78778-0001, or faxed to the number provided in the determination. A written appeal may be hand delivered to the Texas Workforce Commission, 101 East 15th Street, Austin, Texas 78778-0001, a local office of the Agency, or an agent state, or a Texas Workforce Center~~workforce center~~, or an office of a Board. The appeal should identify the determination being appealed, the basis for the appeal, the name of the party appealing, and the date of the appeal. The provisions of §815.32 of this ~~subchapter~~chapter (relating to Timeliness) shall determine on what date the appeal was filed.
  - (B) Upon ~~the~~ scheduling ~~of~~ a hearing on an appeal or a petition to reopen, notice of the hearing shall be mailed to the parties at least five calendar days before the date of the hearing. The notice shall identify the decision or determination appealed from and shall specify the time and date of the hearing, the party appealing, and the issue to be heard. If the hearing is an in-person hearing, the notice shall also specify the location of the hearing.
- (2) Disqualification of appeal tribunal. The essence of a fair hearing lies in the impartiality of the appeal tribunal. An appeal tribunal should be free not only of any personal interest or bias in the appeal before it, but also of any reasonable suspicion of personal interest. No appeal tribunal shall participate in the hearing of an appeal in which that tribunal has a personal interest in the outcome of the appeal decision. The appeal tribunal may withdraw from a

hearing to avoid the appearance of impropriety or partiality. Challenges to the impartiality of any appeal tribunal may be heard and decided by the supervisor of appeals.

(3) Hearing of appeal.

(A) Consistent with §212.106 of the Act, all hearings shall be conducted informally and in a manner to ensure the substantial rights of the parties. All issues relevant to the appeal shall be considered and ruled upon. The parties to an appeal before an appeal tribunal may present evidence that may be material and relevant as determined by an appeal tribunal. The appeal tribunal shall examine parties and witnesses, if any, and may allow cross-examination to the extent the appeal tribunal deems necessary to afford the parties due process. The appeal tribunal, with or without notice to any of the parties, may take additional evidence that it deems necessary, provided that a party shall be given an opportunity to rebut the evidence if it is to be used against the party's interest.

(i) In conducting a hearing, the appeal tribunal shall actively develop the record on the relevant circumstances leading to the separation for hearings involving the issue of work separation and, for hearings involving other issues, the relevant facts to resolve those issues. It is the responsibility of the appeal tribunal to ensure that all relevant issues are thoroughly explored at the hearing.

(ii) The appeal tribunal shall ask any questions necessary to obtain pertinent facts concerning all events (such as job separation) that are at issue in the hearing.

(B) The parties to an appeal, with the consent of the appeal tribunal, may stipulate in writing the facts involved. The appeal tribunal may decide the appeal on the basis of a stipulation or, in its discretion, may set the appeal for hearing and take any additional evidence it deems necessary to enable it to determine the appeal.

(C) Hearings shall be conducted by telephone conference call unless the supervisor of appeals determines that an in-person hearing is necessary because a party with a physical impairment cannot effectively participate by telephone, because the nature of the evidence to be presented makes a hearing by telephone impractical, or because the supervisor of appeals otherwise determines that an in-person hearing is necessary. The rules and procedures in this chapter govern both in-person and telephone hearings. A party may request an in-person hearing by informally contacting, orally or in writing or by any other reasonable method of communication, the appeal tribunal, or the supervisor of appeals before the scheduled time of the hearing and presenting information to support

the request. The supervisor of appeals has the discretion to determine whether the party's request for an in-person hearing will be granted.

- (4) Adjournment, continuance, and postponement of hearing.
  - (A) The appeal tribunal shall use its best judgment to determine when to grant a continuance or postponement of a hearing in order to secure all the evidence that is necessary and to be fair to the parties.
  - (B) Either prior to or during a hearing, an appeal tribunal, on its own motion or on the motion of a party of interest, may continue, adjourn, or postpone a hearing. The continuance, adjournment, or postponement shall not be for the purpose of delaying the proceeding and may be granted due to illness of the appellant, death in the immediate family of the appellant, or a pending criminal prosecution of the appellant. A continuance, adjournment, or postponement may also be granted at the request of the appellant or appellee when there is a need for an interpreter, religious observance, jury duty, court appearance, active military duty, or other reasons approved by the supervisor of appeals. Prior to the hearing, requests for a continuance or a postponement of a hearing may be made informally, either orally or in writing, to the appeal tribunal designated to hear the appeal or to the supervisor of appeals.
- (5) Reopening of hearing before appeal tribunal.
  - (A) If a party fails to appear for a hearing, the appeal tribunal may hear and record the evidence of the party present and the witnesses, if any, and shall proceed to decide the appeal on the basis of the record unless there appears to be good reason for continuing the hearing. A copy of the decision shall be promptly mailed to the parties of interest with an explanation of the manner in which, and time within which a request for reopening may be submitted.
  - (B) A party of interest to the appeal who fails to appear at a hearing may, within 14 calendar days from the date the decision is mailed, petition for a new hearing before the appeal tribunal in the manner set out in paragraph subsection (1)(A) of this section. The petition should identify the party requesting the reopening, the applicable decision of the appeal tribunal, the date of the petition, and explain the reason for the failure to appear. The provisions of §815.32 of this subchapter chapter (relating to Timeliness) shall determine on what date the petition was filed. The petition shall be granted if it appears to the appeal tribunal that the petitioner has shown good cause for the petitioner's failure to appear at the hearing. In the event that an appeal to the Commission is filed before the filing of the petition for reopening by the appeal tribunal, the appeal shall be referred to the Commission for review.

(C) For purposes of this section, the term "appear" shall mean participation by a party or a party's representative in the proceeding. Actions that may be considered as participation include offering testimony, examining witnesses, or presenting oral argument. If the hearing is a telephone hearing, a party or a party's representative shall appear at a hearing by calling on the date and at the time of the hearing and participating in the hearing proceedings. If the hearing is an in-person hearing, a party or a party's representative shall appear by being at the location of the hearing on the date and at the time scheduled for the hearing and participating in the hearing proceedings. Mere submission of written documents, whether sworn or unsworn, or observation of the proceedings, shall not constitute an appearance.

(D) A petitioner under subparagraph (B) of this paragraph shall be deemed to have established good cause for failure to appear at a hearing if:

(i) the time zone in the petitioner's physical location is located in a time zone different from the one specified in the hearing notice;

(ii) the petitioner made a good faith attempt to participate in the hearing at the time stated in the hearing notice by calling at the numerical time in the time zone in the petitioner's physical location; and

(iii) the petitioner's failure to appear was caused solely by the difference between the time zone stated in the hearing notice and the time zone in the petitioner's physical location.

(6) The determination of appeals.

(A) As soon as possible following the conclusion of a hearing of an appeal, the appeal tribunal shall issue its findings of fact and decision with respect to the appeal. The decision shall be in writing and shall reflect the name of the appeal tribunal who conducted the hearing and who rendered the decision. In the decision, the appeal tribunal shall set forth findings of fact and conclusions of law, with respect to the matters on appeal, and the reasons for the decision. Copies of the decision shall be mailed by the appeal tribunal to the parties of interest to the appeal. Upon request, courtesy copies may be mailed to other parties to the appeal.

(B) At any time during the 14 calendar day~~14-day~~ period from the date a decision on an appeal is mailed, unless a party of interest has already appealed to the Commission, the appeal tribunal or the supervisor of appeals may assume continuing jurisdiction over the appeal for the purpose of reconsidering the issues on appeal and issuing a corrected

decision. During the period in which continuing jurisdiction is assumed, the appeal tribunal, after notice to the parties, may take any additional evidence or secure any additional information it deems necessary to issue a decision.