

1 **Amendments to Chapter 821**
2 **Texas Payday Rules**
3 **Policy Concept**

4 **Background**

5 The Texas Payday Act (Texas Labor Code, Title 2, Subtitle C, [Chapter 61](#), Payment of
6 Wages) does not prohibit the withdrawal of a wage claim. Texas Workforce Commission
7 (TWC) Chapter 821 [Texas Payday Rules §821.43](#) was adopted by TWC’s three-member
8 Commission (Commission) to establish a process for claimants to withdraw wage claims.

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10 [Rule §821.43](#) currently allows a claimant to withdraw a wage claim under the following
11 circumstances:

- 12 • A wage claim has been filed, but the wage determination order is not yet final
13 ([§821.43\(a\)\(1\)](#)).
- 14 • A wage determination order has become final, but the claimant certifies that the wage
15 claim is fully satisfied ([§821.43\(a\)\(2\)](#)).

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17 **Issue**

18 Per [Rule §821.43](#), a claimant may withdraw a wage claim whether or not it has become
19 final. When a withdrawal request is submitted and approved, TWC no longer enforces
20 any orders issued (including administrative penalties) and releases all liens and freezes. It
21 is as if the claimant never filed the wage claim.

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23 In consultation with and advice from the Office of General Counsel, staff has determined
24 that §821.43(a)(2) creates legal challenges by implying that an order that has become
25 final may be altered or set aside by the wage claimant.

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27 Because a claimant may not alter or set aside a claim after the Commission decision is
28 final, TWC no longer accepts a wage claim withdrawal submitted pursuant to
29 [§821.43\(a\)\(2\)](#). Instead, in cases in which a wage claim decision has become final and the
30 claimant wants TWC to halt collection action, the claimant may file a Satisfaction of
31 Payment Declaration.

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33 Typically, such a change would become effective when the underlying rule has been
34 amended. However, because [§821.43\(a\)\(2\)](#) has been identified to conflict with the statute
35 and TWC is now aware of this issue, TWC believes that the best course of action is to
36 decline to follow the administrative rule rather than to permit the conflict to continue.

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38 **Recommendation**

39 Staff recommends amending §821 to conform with statute by clarifying that a wage claim
40 may be withdrawn only when the order has not yet become final.

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42 To provide context, the preamble to such an amendment would clarify that a Satisfaction
43 of Payment Declaration differs from a withdrawal in that TWC will still pursue
44 administrative penalties on the claim and the employer will still be credited with a
45 violation. TWC’s Collections and Civil Actions department will, however, cease actions

- 1 to collect on wages ordered, since the claimant will have declared that these wages have
- 2 been paid to their satisfaction.