

1 **CHAPTER 815. UNEMPLOYMENT INSURANCE**

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3 **ADOPTED RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS**  
4 **REGISTER. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**  
5 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE TEXAS REGISTER.**  
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7 The Texas Workforce Commission (Commission) adopts the following new section to Chapter  
8 815, relating to Unemployment Insurance, *without* changes, as published in the September 17,  
9 2010, issue of the *Texas Register* (35 TexReg 8490):

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11 Subchapter B. Benefits, Claims, and Appeals, §815.29

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

14 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND**  
15 **RESPONSES**

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

18 The Commission adopts new rules to comply with the benefit coordination provisions of the  
19 Unemployment Compensation Extension Act of 2010, Public Law (P.L.) 111-205, enacted July  
20 22, 2010.

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22 P.L. 111-205 §3, Coordination of Emergency Unemployment Compensation with Regular  
23 Compensation, speaks to circumstances in which an individual qualifies for a new benefit year  
24 pursuant to Texas Labor Code §201.011(5) but retains entitlement for emergency unemployment  
25 compensation (EUC) benefits from an immediately prior benefit year. In such cases, the  
26 Commission must determine whether the individual qualifies for a weekly benefit amount of  
27 regular compensation that is at least either \$100 or 25 percent less than the individual's weekly  
28 benefit amount in the prior benefit year. The purpose of this section is to address cases in which  
29 individuals take intermittent, part-time work to augment their unemployment benefits. Such  
30 part-time work, inconsistent with their normal occupation and wage, comprises the base period  
31 wage credits of a new benefit year, qualifying the individual for a substantially reduced weekly  
32 benefit amount.

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34 In such instances, the Act dictates that a state shall implement procedures that allow an  
35 individual to continue receiving the higher weekly benefit amount by continuing payment of  
36 EUC before payment of regular compensation or by paying both types of claims simultaneously.  
37 P.L. 111-205 allows the state to use one of the following options:

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39 (A) The state shall, if permitted by state law, establish a new benefit year, but defer the payment  
40 of regular compensation with respect to that new benefit year until exhaustion of all emergency  
41 unemployment compensation payable with respect to the prior benefit year;

1 (B) The state shall, if permitted by state law, defer the establishment of a new benefit year  
2 (which uses all the wages and employment that would have been used to establish a benefit year  
3 but for the application of this section), until exhaustion of all emergency unemployment  
4 compensation payable with respect to the prior benefit year;

5  
6 (C) The state shall pay, if permitted by state law:

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8 (i) regular compensation equal to the weekly benefit amount established under the new  
9 benefit year, and

10 (ii) emergency unemployment compensation equal to the difference between that weekly  
11 benefit amount and the weekly benefit amount for the expired benefit year; or

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13 (D) The state shall determine rights to emergency unemployment compensation without regard  
14 to any rights to regular compensation if the individual elects to not file a claim for regular  
15 compensation under the new benefit year.

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17 In evaluating the options available under the federal law, the Commission has determined that  
18 Option A--establishing a new benefit year, but deferring the payment of regular compensation  
19 until exhaustion of all emergency unemployment compensation payable with respect to the prior  
20 benefit year--is the most financially sound, efficient, and beneficial method to comply with this  
21 new, temporary requirement. After exhaustive analysis, the Commission believes this option can  
22 be implemented through a mix of automation changes in the unemployment insurance (UI)  
23 Benefits System and changes to existing manual staff processes.

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25 Option B--deferring the establishment of a new benefit year (which uses all the wages and  
26 employment that would have been used to establish a benefit year), until exhaustion of all  
27 emergency unemployment compensation payable with respect to the prior benefit year--is not  
28 permitted under Texas Labor Code §201.011.

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30 Option C--paying regular compensation under the new benefit year and paying emergency  
31 unemployment compensation from the prior benefit year equal to the difference between the two  
32 weekly benefit amounts--requires extensive, costly modifications to the Commission's UI  
33 Benefits System as well as extensive changes to the UI claims-taking process. This option would  
34 pay benefits immediately from the already strained state unemployment compensation fund.  
35 Accordingly, the Commission has determined that it is not a cost-effective option.

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37 Option D--allowing the individual to elect not to file a claim for regular compensation under the  
38 new benefit year--could be implemented within a relatively short period of time, but it puts  
39 claimants at the greatest risk of losing benefits eligibility. It requires claimants to make complex  
40 decisions about receipt of benefits based on potential future monetary eligibility. The  
41 Commission has found that Option A presents less risk to claimants than found under Option D.

1 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND**  
2 **RESPONSES**

3  
4 **SUBCHAPTER B. BENEFITS, CLAIMS, AND APPEALS**

5 **The Commission adopts the following amendment to Subchapter B:**

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7 **§815.29. Coordination of Emergency Unemployment Compensation with Regular**  
8 **Compensation**

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10 New §815.29 adds a temporary provision. It establishes a new benefit year, but defers the  
11 payment of regular compensation for that new benefit year until exhaustion of all emergency  
12 unemployment compensation payable for the prior benefit year--if the weekly benefit amount of  
13 regular compensation in a new benefit year is at least \$100 or 25 percent less than the  
14 individual's weekly benefit amount in the immediately preceding benefit year. This section is  
15 repealed when the federal requirement no longer exists.

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17 No comments were received.

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

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22 The rules are adopted under Texas Labor Code §301.0015 and §302.002(d), which provide the  
23 Commission the authority to adopt, amend, or repeal such rules as it deems necessary for the  
24 effective administration of Agency services and activities.

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26 The adopted rules will affect Texas Labor Code, Title 4, the Texas Unemployment  
27 Compensation Act.

