

1 **CHAPTER 821. TEXAS PAYDAY RULES**

2  
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.**

6 The Texas Workforce Commission (TWC) adopts, without changes, as published in the April 3,  
7 2020, issue of the *Texas Register* (45 TexReg 2283) amendments to the following section of  
8 Chapter 821, relating to Texas Payday Rules:

9  
10 Subchapter C. Wage Claims, §821.43

11  
12 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

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

14  
15 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

16 The purpose of the Chapter 821 rule change is to clarify that a claimant can withdraw a wage  
17 claim at any time up to the point at which TWC's written order becomes final. An order becomes  
18 final for all purposes under the following circumstances:

19  
20 --If either party does not file an appeal within 21 days from the date the Preliminary Wage  
21 Determination Order is mailed

22  
23 --If either party does not file an appeal within 14 days from the date the Wage Claim Appeal  
24 Tribunal or Commission order is mailed

25  
26 --A denial of a Motion for Rehearing becomes final 14 days after the date it is mailed.

27  
28 --A denial of a Motion for Rehearing, or order of the Commission when no Motion for  
29 Rehearing has been filed, becomes final 14 days from the date it is mailed regardless as to  
30 whether a party files for judicial review of the decision

31  
32 Per §821.43 as currently written, a claimant may withdraw a wage claim whether or not it has  
33 become final. When a withdrawal request is submitted and approved, TWC no longer enforces  
34 any orders issued (including administrative penalties) and releases all liens and freezes. It is as if  
35 the claimant never filed the wage claim.

36  
37 The Agency has determined that §821.43(a)(2) creates legal challenges by implying that the  
38 wage claimant may alter or set aside a claim that has become final.

39  
40 Because a claimant may not alter or set aside a claim after the TWC decision is final, TWC no  
41 longer accepts a wage claim withdrawal submitted pursuant to §821.43(a)(2). Instead, in cases in  
42 which a wage claim decision has become final and the claimant wants TWC to halt collection  
43 action, the claimant may file a Satisfaction of Payment Declaration.

44  
45 A Satisfaction of Payment Declaration differs from a withdrawal in that TWC will still recognize  
46 that an order has been issued, but the Collections and Civil Actions department will cease

1 collections action on wages owed by the employer to the claimant under a wage claim. The  
2 employer will still be liable for any administrative penalties assessed on the claim. TWC will  
3 release any liens or freezes on the claim once the employer pays any administrative penalties  
4 owed.

5  
6 TWC does not process contractual settlements between parties regarding wage claims. If the  
7 parties reach an outside settlement, and the TWC order is not yet final, the claimant may  
8 withdraw a wage claim. If an order has become final, the claimant may declare satisfaction of  
9 payment with respect to the settlement. The Satisfaction of Payment Declaration has the effect of  
10 ceasing the wage order collection process.

11  
12 A claimant may not rescind a withdrawal of wage claim or Satisfaction of Payment Declaration  
13 once it has been submitted. If the employer does not fulfill the terms of the settlement, the  
14 claimant may not "undo" either action.

15  
16 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

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

19  
20 **SUBCHAPTER C. WAGE CLAIMS**

21 **TWC adopts the following amendments to Subchapter C:**

22  
23 **§821.43. Wage Claim Withdrawal**

24 Section 821.43(a) is amended to delete paragraphs (1) and (2) to clearly stipulate that a claimant  
25 may withdraw a wage claim at any point up to when TWC's written order becomes final.

26  
27 No comments were received.

28  
29 TWC hereby certifies that the adoption has been reviewed by legal counsel and found to be  
30 within TWC's legal authority to adopt.

31  
32 The rules are adopted under Texas Labor Code §61.002(a)(2), which directs TWC to adopt rules  
33 as necessary to implement Chapter 61, the Texas Payday Law.

34  
35 The adopted rules affect Texas Labor Code Chapter 61.

1 **Chapter 821. TEXAS PAYDAY RULES**

2  
3 **SUBCHAPTER C. WAGE CLAIMS**

4  
5 **§821.43. Wage Claim Withdrawal.**

6  
7 (a) The Commission shall allow a claimant to withdraw a wage claim at any time  
8 before the date when the Commission's written decision becomes final.~~only under~~  
9 ~~the following circumstances:~~

10  
11 ~~(1) Before the Commission's written decision is final; or~~

12  
13 ~~(2) After the Commission's written decision is final, if the claimant certifies to the~~  
14 ~~Agency that the wage claim is fully satisfied.~~

15  
16 (b) A claimant withdrawing a wage claim shall submit a form as prescribed by the  
17 Commission.

18  
19 (c) The Commission shall apply the withdrawal of a wage claim to both  
20 administrative penalties and wages.  
21