

Subchapter C. Welfare to Work Grievance Procedures

40 TAC §839.35, §839.36

The Texas Workforce Commission (Commission) proposes new §839.35, §839.36, relating to grievance procedures for the Welfare to Work program.

The purpose of §839.35 is to address time limitations at the local level. Section 839.36 concerns the Welfare to Work Provider responsibilities. Section 839.37 is reserved for expansion.

These sections were originally published in the February 12, 1999, issue of the *Texas Register* (24 TexReg 932). As the Commission has revised these sections, the Commission has re-proposed these sections for an additional 30-day comment period.

Randy Townsend, Chief Financial Officer, has determined that for the first five years the sections are 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 rules;

there are no estimated reductions in costs to the state or to local governments expected as a result of enforcing or administering the rules;

there are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing and administering the rules;

there are no foreseeable implications relating to costs or revenues to the state or to local governments as a result of enforcing or administering the rules; and

there are no anticipated costs to persons who are required to comply with the rules as proposed.

Randy Townsend, Chief Financial Officer, has determined that there is no anticipated adverse impact on small businesses as a result of enforcing or administering these rules.

Jean Mitchell, Director of Workforce Development, has determined that the public benefit anticipated as a result of the rules as proposed will be to clarify the duties of the Equal Opportunity Officer.

Mark Hughes, Director of Labor Market Information, has determined that there is no significant negative impact upon employment conditions in this state as a result of these proposed rules.

Comments on the proposed sections may be submitted to Reagan Faulkner, Workforce Development Division, Texas Workforce Commission, 101 East 15th Street, Room 434T, Austin, Texas 78778; Fax Number (512) 475-2176; or E-mail to reagan.faulkner@twc.state.tx.us.

Comments must be received by the Commission no later than thirty (30) days from the date this proposal is published in the *Texas Register*.

The new sections are proposed under Texas Labor Code §301.061 which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Texas Workforce Commission programs.

The proposal affects the Texas Labor Code, Title 4.

§839.35. Time Limitations at Local Level.

(a) All complaints of violations as described in §839.31 of this title (relating to Purpose and Coverage) must be made within 180 days of the alleged action. The time limitations for complaint resolution specified in 20 CFR §645.270(g) shall begin to run upon the date of receipt by the Welfare to Work contractor of a properly completed written grievance according to the requirements of §839.34 of this title (relating to Grievance Filing Procedures at the Local Level).

(b) All of the complainant's outstanding and unresolved allegations under this subchapter against the respondent must be described and consolidated into a single complaint, at the time of filing. Any allegation not consolidated into the filed complaint prior to a hearing shall be deemed waived.

§839.36. Welfare to Work Provider Responsibilities.

Each Welfare to Work contractor shall maintain at their principal places of business and at all intake centers a copy of the Welfare to Work grievance procedure rules and shall post notice that a copy of the rules is available upon request. Each Welfare to Work subrecipient shall maintain at each facility where a Welfare to Work participant performs work a copy of the Welfare to Work grievance procedure rules and shall post notice that a copy of the rules is available upon request. The Welfare to Work contractor shall also:

(1) designate a staff person as EO Officer who shall:

(A) ensure that the Welfare to Work contractor's staff informs each Welfare to Work applicant about the existence of the Welfare to Work grievance procedure;

(B) obtain the signature of the applicant stating that the applicant is aware of the existence of the Welfare to Work grievance procedure and retain a copy of the signed form in each participant's official record;

(C) handle all complaint correspondence and maintain complete and accurate records of all complaint proceedings;

(D) coordinate each step of the Welfare to Work grievance procedure occurring prior to any appeal to SOAH, including forwarding the request for hearing to the hearing officer, pursuant to §839.40 of this title (relating to notice of hearing);

(E) forward a copy of all complaints to the Commission; and

(2) prepare and maintain all records, transcripts and other documentation required by the Welfare to Work grievance procedure to ensure that the Welfare to Work contractor is fully complying with the terms of the Welfare to Work grievance procedure.

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

Filed with the Office of the Secretary of State, on May 27, 1999.

TRD-9903159

J. Randel (Jerry) Hill

General Counsel

Texas Workforce Commission

Earliest possible date of adoption: July 11, 1999

For further information, please call: (512) 463-8812