

FLAHIVE, OGDEN & LATSON

Advisory No. 18

TOPIC: Fee Guidelines and Additional Rules

FEE GUIDELINES:

Through June 30, 1991, the Commission has been operating under emergency guidelines for medical fees, pharmacy fees, and hospital fees. All of the emergency guidelines expired on or about June 30, 1991, and cannot be extended further under the law. In other words, as of July 1, 1991, the Commission either had to adopt permanent guidelines, or alternatively, adopt new guidelines (substantively different than the previous emergency guidelines).

With regard to medical and pharmacy guidelines, the Commission has neither adopted permanent guidelines, nor new emergency guidelines. Therefore, as of July 1, 1991, there are no guidelines legally in effect for medical and pharmacy fees. The Commission will be considering permanent guidelines within the next few days, but even if quickly adopted, they would not go into effect until the end of July or the first of August. In the interim, the carrier must pay the statutory fair and reasonable charges. What is fair and reasonable? The suggestion being made at this time to all carriers is to go ahead and continue auditing bills under the previous emergency guidelines, since that would appear to be the most fair and reasonable way to handle the payment of bills pending adoption of the permanent guidelines.

The situation with regard to hospital guidelines is more complex. While the initial emergency hospital guidelines ended on or about June 30, 1991, the Commission adopted, on an emergency basis, new hospital guidelines that were to go into effect on or about July 1, 1991. The old emergency guidelines used the "ratio" method, while the new emergency guidelines adopted the "Grouper" or "DRG" method. This latter method literally requires the purchase of new computer software packages for those carriers and audit companies who have not been previously auditing health insurance type bills from hospitals. However, the Texas Hospital Association immediately challenged the new emergency guidelines and a district judge in Travis County has issued a temporary restraining order preventing the new emergency guidelines from going into effect. Thus, just like medical and pharmacy fee guidelines, we have no hospital fee guideline in place at this point in time either. Reimbursement for hospital services will be done o7 3

according to the "fair and reasonable" standards set forth in the statutes. It is suggested that carriers and audit companies continue to use the old "ratio" method until a new hospital guideline is adopted, or the Court lifts the restraining order. We will keep you advised of developments in this regard.

Rules:

Most of the rules required to get the new law off the ground are now in place. However, there are still miscellaneous rules being proposed and adopted at this time. We are attaching the rules that the Commission has adopted and published as Supplement E for your update.

If you have not already purchased our Texas Workers' Compensation Rules Edition, you should order now. We expect delivery by July 15, 1991, and it will be organized and indexed. The cost is \$55.00 each, which includes tax and postage.