

ADVISORY NO. 181

TOPIC: Court of Appeals Declares TWCC Rule 134.400 Void

On December 6, 1995, the Third Court of Appeals in Austin declared Texas Workers' Compensation Commission Rule 134.400 void under the Administrative Procedure Act (APA). The Commission is enjoined from enforcing the rule, which adopts a per-diem reimbursement system for hospitals providing inpatient, acute-care services. The Court's decision, styled Texas Hospital Association, et al. v. TWCC, was based on the Commission's failure to satisfy the APA requirement that an agency's order purporting to adopt an agency rule must contain a reasoned justification for that rule. According to the Third Court of Appeals, the Commission's 1992 Order adopting Rule 134.400 failed to satisfy this standard.

Please be advised that TWCC is appealing this decision, so the guideline remains in effect until a final and binding decision is issued by the courts.

The decision is attached.