

**ADVISORY NO. 222**

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**TOPIC: LATEST CHANGE IN PROCEDURE FOR RESUBMISSION  
OF BILLS UNDER INVALIDATED 1992 ACUTE CARE  
INPATIENT HOSPITAL FEE GUIDELINE**

Attached is the latest communique from the TWCC Executive Director concerning the resubmission of hospital bills previously reduced or not yet submitted under the 1992 Acute Care Inpatient Hospital Fee Guideline. This new procedure supersedes the one previously announced and reported to you in Advisory No. 212.

There are two major changes contained in this new procedure:

1. Providers may resubmit and Carriers are to reconsider any and all bills from September 1, 1992 on, that is, any hospital bill which would have been covered under the invalidated 1992 fee guideline. Previously the procedure for resubmission was limited to bills for care on or after December 6, 1995.
2. The period for a hospital to file a request for medical dispute resolution on any of the bills is extended until August 15, 1998. Previously the procedure, as amended once, had a deadline of July 15, 1997 for any bills for services through July 15, 1996, with requests for resolution of disputes over services after 7/15/96 being due one year from the dates of service.

This latest change in procedure was the result of a settlement of a lawsuit filed by the Texas Hospital Association (THA) to enjoin the implementation of the original resubmission procedure announced by the TWCC in February. The procedure was simply adopted in exchange for THA's dismissal of its suit and is not reflected in any court decision or order. No carriers were parties to this short-lived litigation.

It is our opinion that this latest adoption of procedure by the Executive Director does not necessarily affect the operation of TWCC Rule 133.305(a), which creates a "statute of limitations" for the filing of requests for medical dispute resolution of one year from the dates of the services in dispute. FO&L intends to raise this limitations defense in any case where it may apply under the argument that the Executive Director may not, by the mere announcement of a procedure for handling a class of medical dispute cases, supersede any provision of a specific TWCC Rule.

FO&L continues to recommend that Carriers stand by any reductions made under the 1992 fee guideline under the theory that while it may have been invalidated on a procedural basis, the guideline provided a reasoned methodology of for determining fair and reasonable charges for acute care inpatient services for the period of September 1, 1992 through July 31,

1997. (As reported in recent FO&L Advisory 219, a new Acute Care Inpatient Fee Guideline went into effect August 1, 1997)

Carriers, adjusters and peer review companies who have already been receiving some resubmitted bills and/or requests for medical dispute resolution can expect many more to come their way as a result of the settlement of this latest litigation by the hospital association, as the estimated number of bills covered by the 1992 guideline is in the hundreds of thousands.

**FOL now provides the service of preparing and filing your responses to requests for medical dispute resolution, including those involving hospital fee resubmissions, for a nominal fee. Since the evidentiary record in any subsequent hearing is almost always limited to documentation provided to the Medical Review Division at the time of its initial consideration of the dispute, responses to TWCC-60s and MRD “10 day letters” are crucial. Failure to raise all factual and legal issues in these responses to MRD can be fatal to an otherwise valid denial of payment of excessive fees, or of preauthorization or payment for an unnecessary medical procedure. If you have any questions regarding FOL preparation of your responses to requests for medical dispute resolution, please call Connie Nolan (direct line 512/435-2266) or John Gillespie (435-2173).**