

Advisory No. 233

TOPIC: TWCC ISSUES NEW HOSPITAL FEE DISPUTE ADVISORY

Attached is TWCC Advisory 98-01 concerning medical dispute resolution requests involving the hospital bills covered by the invalidated 1992 Acute Care Inpatient Hospital Fee Guideline.

The TWCC has set deadlines for the submission of additional information on disputes where requests for medical dispute resolution have already been filed by the hospital. These are:

* **May 15, 1998:** deadline for submitting additional information on cases where reimbursement has been denied due to a **compensability dispute or lack of preauthorization** or where a bill has been **reduced because of any ppo contract or other contractual agreement;**

* **June 30, 1998:** deadline for submitting additional information regarding the **amount of additional reimbursement or refund** being claimed.

The FO&L medical review staff will pull all hospital dispute files that involve compensability or preauthorization disputes to ensure that adequate information on these issues was provided to MRD at the time of the initial response. **In compensability cases we will probably contact you to ascertain current status, particularly if the dispute has been resolved in the carrier's favor either by agreement or by CCH or Appeals Panel decision.** Disputes involving claims where there has been a finding of no compensability will clearly be dismissed; those where the issue is still unresolved will just have to be put on hold until there is a final resolution by agreement or decision. **In preauthorization cases we will contact you if we feel we need more documentation** of the need for preauthorization, whether it was obtained and its scope, whether the billed services all were covered by any preauthorization approval, etc. The TWCC is likely to rule on, and let the parties litigate at SOAH, the preauthorization issue in hospital fee disputes before tackling the amount of reimbursement itself.

A significant number of disputes involve reductions of hospital bills pursuant to ppo or other contracts. The TWCC has requested that copies of any such contracts be provided by May 15 if they were used as a basis of bill reduction. **It appears that MRD stands ready to uphold any hospital fees reduced pursuant to a ppo contract, if a copy of the contract is provided to substantiate the cuts.** Traditionally it has been difficult to get copies of these contracts in other medical fee dispute cases. **If you know that ppo contracts were used to reduce hospital bills in your cases please start inquiring about how to obtain a copies of these contracts.** The FO&L medical review staff will pull all hospital dispute files that involve ppo reductions and will be in touch with the contact person for medical disputes at your company regarding what files appear to involve such contracts and how to obtain copies.

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As for the June 30, 1998 deadline for filing additional information regarding the amount of additional reimbursement or refund due, the FO&L medical review staff will review all other hospital dispute files and will contact you if we feel we need more documentation. If between now and June 30 we receive additional information provided by hospitals in response to TWCC Advisory 98-01, we will contact you to determine if a further response by the carrier is needed. **If you directly receive any additional information from any hospitals regarding any of these fee disputes please notify the FO&L medical review staff immediately.**

In addition to announcing these new deadlines, TWCC Advisory 98-01 tells much more if you “read between the lines.” Clearly **MRD is not impressed with the dispute requests filed by the hospitals in these cases to date, including the hospitals’ general position that “since the guideline is invalid, we get paid our full bill.”** The advisory addresses in detail Texas Labor Code Section 413.011(b), which outlines the elements for determining appropriate medical services fees, calls for evidence on these elements and goes on to say that “resubmitted bills without such evidence may not be considered sufficient evidence to support a decision for changing previous reimbursement.” **One of the things that FO&L has constantly raised in our responses to these disputes is the fact that the hospitals should be required to submit Section 413.011(b) evidence to support a claim for additional reimbursement or the bill should stand as paid, and the TWCC appears to agree with our argument.** The advisory also specifically states that “evidence related to what the hospital charged and was paid for similar treatment of an injured individual of an equivalent standard of living will be important in the review of a hospital dispute.” This latter comment can be nothing other than a call for the hospitals to submit their managed care contracts as part of their proof, something that is not now being done and which the hospitals are extremely reluctant to do. **Again, in our responses we always demand that the hospitals be required to reveal their managed care deals to support their claims for additional reimbursement and, again, the TWCC appears to agree with us.**

TWCC Advisory 98-01 also “strongly encourages” mediation of these disputes. However, with the TWCC agreeing with the carriers’ about the kind of evidence that hospitals will have to produce to show entitlement to additional reimbursement, it is difficult to recommend settling any of these cases at this time.

FO&L will keep you advised of further developments in this area, both through advisories and FOLIO articles, and our medical review staff will be contacting you if we see a possible need to submit additional information to MRD on any of these disputes. **If you have any questions about these hospital fee dispute cases please call Connie Nolan (512/435-2266).**