

**ADVISORY NO. 336**  
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**TOPIC:       PATIENT ADVOCATES OF TEXAS (PAT) V. TWCC**

Patient Advocates of Texas (PAT) filed a Declaratory Judgment Action complaining about the *1996 Medical Fee Guidelines*, the one-year deadline for medical dispute resolution, and the TWCC on-site audit rules. The Court of Appeals validated the *1996 Fee Guideline* and the one-year limitation on medical disputes. The court declared the TWCC provisions for an on-site audit to be an unlawful delegation of authority to the carriers.

On motion for rehearing, the Court of Appeals expressly declined to “narrow our holding to only invalidate the on-site portion of the audit rules in question.” The dissent characterized this opinion as leaving “the parties in an untenable position.” However, that was the opinion of one judge. The two-judge majority concluded that the carriers did not have the authority to conduct desk audits or on-site audits. TWCC has issued the attached Advisory 2002-12 to announce that it will not apply the rationale of the PAT case. All audit rules remain “fully in effect.” TWCC will appeal this decision to the Supreme Court. Because there was a dissent, the chances for a Supreme Court review of this decision are significantly improved.

Some medical providers, primarily Dr. Robert Howell, a chiropractor in the Brownsville area, contend that this case invalidates traditional processing of medical bills. This and other theories support his contention that medical dispute resolution before TWCC is unnecessary. He claims that the JP and County Courts of the state have concurrent jurisdiction with TWCC on medical questions. Other chiropractors appear interested in this same theory.

On July 2, 2002, Travis County District Court Judge Covington granted a temporary injunction against Dr. Howell. He is enjoined from filing medical bill collections in trial courts prior to exhausting all administrative remedies before TWCC and SOAH. That ruling has been appealed. The injunction remains binding pending the appeal. A hearing on a permanent injunction has been scheduled for September 30, 2002.

FLAHIVE, OGDEN & LATSON