Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be reimbursement of $8,157.73 for dates of service 03/07/01 – 03/10/01, and 03/13/01.

   b. The request was received on 03/05/02.

II. EXHIBITS

1. Requestor, Exhibit I:

   a. TWCC 60 and Letter Requesting Dispute Resolution dated 03/04/02
   b. UB-92 HCFA1450(s)
   c. EOBs
   d. Medical Records
   e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.

2. Respondent, Exhibit II:

   a. TWCC 60 and Response to a Request for Dispute Resolution dated 05/15/02
   b. UB-92 HCFA1450(s)
   c. EOBs
   d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.

3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 04/25/02. Per Rule 133.307 (g) (4) or (5), the carrier representative signed for the copy on 05/02/02. The response from the insurance carrier was received in the Division on 05/15/02. Based on 133.307 (i) the insurance carrier's response is timely.

4. Notice of Medical Dispute is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor:

   "It is our understanding that the insurance carrier and its audit company, denied the Hospital's claims on the basis of no authorization. It is the Hospital's contention that authorization was not required for (claimant's) admission of March 7, 2001, because (claimant) was admitted through the Hospital's **emergency room.** Pursuant to Rule

134.600 (a)(1). Texas Workers' Compensation Commission, the insurance carrier is liable for the reasonable and necessary medical costs relating to the health care treatments and services required to treat a compensable injury when there is a life-threatening degree of medical emergency necessitating treatment or services. As evidence by the enclosed medical records, (claimant) was presented to the Hospital's emergency room complaining of acute back and leg pain and an inability to walk. The records note that (claimant) was experiencing 'acute radiculopathy and inability to ambulate because of pain across her back. The patient was admitted for acute treatment and inability and lumbar myelogram with postmyelogram CT.' As evidenced by the enclosed medical records, (claimant's) condition was of a life-threatening degree of medical emergency necessitating treatment and services. As such, the insurance carrier is liable for the reasonable and necessary medical costs incurred in the treatment of (claimant) as provided for by statute. Specifically, our client's business record (enclosed) shows that for this date of service, the Hospital's representative contacted the adjustor for (Carrier) prior to services and left several detailed voice mail messages requesting authorization. None of our client's representative's messages were returned. Our client followed the rules of the TWCC for obtaining authorization and through no fault of their own; they were not provided one by the carrier. Accordingly, the carrier has no reasonable basis to deny this claim."

2. Respondent:

"There is no documentation of any kind even suggesting this was a life-threatening emergency. While the admitting documentation records acute (read: temporary) back pain, there is no documentation of Claimant's pending death as a result. Claimant was admitted into the emergency room with acute back pain, status post laminectomy and fusion in 1999. The Claimant gave a history of increasing back pain over a 2-3 day period. (Provider's) initial admitting examination reflected the Claimant was in 'moderate distress'. There is no record of any attempt to contact the Carrier until after discharge, even though the record shows Requestor knew this was a potential workers' compensation admission and the 'emergency' myelogram and CT were not performed until the second day of admission. The Claimant was admitted on 3/07/01 and discharged on 3/10/01, then re-admitted on 3/13/01 for a procedure related to the non pre-authorized hospitalization and myelogram. The 'emergency' myelogram was read as 'unremarkable."

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are 03/07/01 – 03/10/01, and 03/13/01.

2. The provider billed the insurance carrier $8,157.73 for dates of service 03/07/01 – 03/10/01, and 03/13/01.

3. The carrier denied reimbursement for pre-authorization was not obtained.

4. The amount in dispute is $8,157.73 for DOS 03/07/01 – 03/10/01, and 03/13/01.

5. The Provider stated it was an emergency admission because of claimant's inability to ambulate, due to acute radiculopathy.

6. The Carrier stated that it was not a life-threatening emergency, and did not warrant an emergency admission.

V. RATIONALE

Medical Review Division's rationale:

TWCC Rule 134.600(a) states: "The insurance carrier is liable for the reasonable and necessary medical costs relating to the health care treatments and services listed in subsection (h) of this section, required to treat a compensable injury, when any of the following situations occur:

(1) there is a life-threatening degree of a medical emergency necessitating one treatment or services listed in subsection (h) of this section…"

TWCC Rule 133.1 (a)(7)(A) states: "…a medical emergency consists of the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could be reasonably be expected to result in placing the patient's health and/or bodily functions in serious jeopardy, and/or serious dysfunction of any body organ or part."

On the initial physical assessment, the nurse indicates on number 7, the assessment reads; "occasionally left leg hurts from back problem." Also pain scale of 8 on a scale of 1-10. Also indicates a "sharp stabbing" and is worse upon "walking activity".

The History of Present Illness by the attending physician states: "The patient is a 43 year old female admitted through the emergency room with acute back and leg pain."

Physical Examination states: "Reveals a 43-year-old female in moderate distress."

The medical documentation does not indicate, according to the referenced Rule, that the claimant was in a life-threatening situation, and/or the claimant's health and/or bodily functions were in serious jeopardy. The initial evaluation by the HCP indicates that the claimant was in moderate distress. The myelogram and post-myelogram CT indicated that the impression was "Essentially unremarkable." On the discharge summary the medical documentation indicates "the myelogram showed no evidence of hardware failure and no acute neurologic loss."

Therefore, the medical documentation submitted does not support a medical emergency, and reimbursement **is not** recommended.

The above Findings and Decision are hereby issued this 24th day of June 2002.

Michael Bucklin, LVN
Medical Dispute Resolution Officer
Medical Review Division

MB/mb

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.