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 $174.00 per the TWCC 60 for dates of service 03/14/01, 03/22/01, and 04/05/01.

   b. The request was received on 03/12/01.

II. EXHIBITS

1. Requestor, Exhibit I:

   a. TWCC 60 and Letter Requesting Dispute Resolution dated 05/09/02
   b. HCFA(s)-1500
   c. TWCC 62 forms
   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 06/12/02
   b. TWCC 62 form
   c. 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 05/30/02. Per Rule 133.307 (g) (4), the carrier representative signed for the copy on 05/30/02. The response from the insurance carrier was received in the Division on 06/13/02. 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: Letter dated 05/09/02:
   "To the dismay of all doctors, we are forced to fill out a TWCC 73 every two weeks. I would much rather fill these out once a month, or never. I did fill these out dutifully. They took time that $15.00 does not compensate….These were not paid for by the

carrier. These have a fee of $15.00 by Commission Guidelines….all health care must be approved or recommended by the employee's treating doctor. Subsection C2 of Spinal Treatment Guidelines requires that the treating doctor monitoring all health care services….it is medically necessary for the patient to see the patient [sic] and evaluate the patient, i.e. office visits. Established patient 99211-99215. These codes are used to report the E/M services provided to established patients who present for follow up and/or re-evaluation of problems….a doctor may bill for, and a carrier shall reimburse, filing a complete Work Status Report…or for providing a subsequent copy of a Work Status Report which was previously filed because a carrier, its agent, or the employee through its carrier, asks for an extra copy. The amount of reimbursement shall be $15.00….Doctors are not required to submit a copy of the report being billed for with the bill if the report was previously provided. Doctors billing Work Status Reports as permitted by this section shall do so as follows:…(2) CPT code '99080' with modifier '73' and 'RR' (for requested report) shall be used when the doctor is billing for an additional report requested by or through the carrier…."

2. Respondent: Letter dated 06/12/02:
"**99213** The requester submits a dispute for office visits on 3/14/01, 3/22/01, and 4/5/01. All three dates of service were paid at the 4/1/96 MFG MAR ($48.00 for each date of service); therefore, no further reimbursement is due.
99080-73 **1.** The requester submitted charges for a work status report, where none was required. Although the requester asserts providers are required to submit a report every two weeks, this assumption is not supported by the rule….3. As evidenced by the (Carrier's) records and the provider's method of billing, the carrier did not request the work status report in dispute."

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are 03/14/01 and 04/05/01.

2. The provider billed a total of $180.00 per the TWCC 60 for 03/14/01, 03/22/01, and 04/05/01.

3. The carrier recommended payment of a total of $144.00 per TWCC 62 dated 03/11/02 for dates of service 03/14/01, 03/22/01, and 04/05/01 for CPT code 99213. The carrier recommended reimbursement of $48.00 (MAR value) for CPT code 99213 for each date of service in dispute). After the recommendation of payment for CPT code 99213, the only dates of service remaining in dispute are 03/14/01 and 04/05/01.

4. The EOB for the dates and CPT codes in dispute has the denial code of "F – 73 THE WORK STATUS REPORT (TWCC 73) WAS NOT PROPERLY COMPLETED OR WAS SUBMITTED IN EXCESS OF THE FILING REQUIREMENTS, THEREFORE, IS DENIED PER RULE 129.5."

5. The amount in dispute after the supplemental payment of $144.00 is $30.00.

6. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT or Revenue CODE	BILLED	PAID	EOB Denial Code(s)	MAR$	REFERENCE	RATIONALE:
03/14/01 04/05/01	99080-RR-73 99080-RR-73	$15.00 $15.00	$0.00 $0.00	F-73 F-73	$15.00 $15.00	Rule 129.5 (a) (2) (3) (4); (b); (d); (i) (2); CPT descriptor	Per Rule 129.5 (d), "The doctor shall file the Work Status Report: (1) after the initial examination of the employee, regardless of the employee's work status; (2) when the employee experiences a change in work status or a substantial change in activity restrictions; and (3) on the schedule requested by the insurance carrier (carrier), its agent, or the employer requesting the report through its carrier, which shall not to exceed one report every two weeks and which shall be based upon the doctor's scheduled appointments with the employee." A "substantial change in activity restrictions means a change in activity restrictions caused by a change in the employee's medical condition which either prevents the employee from working under the previous restrictions or which allows the employee to work in an expanded and more strenuous capacity than the prior restrictions permitted"… "change in work status means a change in the employee's work status from one of the three choices in subsection (a) (4)"…"work status refers to whether the injured employee's medical condition: (A) allows the employee to return to work without restrictions…(B) allows the employee to return to work with restrictions…(C) prevents the employee from returning to work." 129.5 (i) (2) states, "CPT code '99080' with modifiers '73' and 'RR' (for 'requested report') shall be used when the doctor is billing for an additional report requested by or through the carrier under section (d)(3) of this section…" Rule 129.5 (d) (1-3) state conditions when a work status report can be filed. "The doctor shall file the Work Status Report: (1) after the initial examination of the employee, regardless of the employee's work status; (2) when the employee experiences a change in work status or a substantial change in activity restrictions…" The provider did not meet the criteria of Rule 129.5 (d) (1) or (2). Rule 129.5 (d) (3) states a work status report can be filed "on the schedule requested by the insurance carrier…, its agent, or the employer requesting the report through its carrier, which shall not to exceed one report every two weeks and which shall be based upon the doctor's scheduled appointments with the employee." The carrier states in it's response that it did not request the work status report in dispute from the provider. The provider did not submit evidence that the carrier, the carrier's agent, or the employer of the injured employee requesting the report through its carrier requested the work status report in accordance with Rule 129.5 (d) (3). Therefore, **No** reimbursement is recommended.
Totals		$30.00	$0.00				The Requestor **is not** entitled to reimbursement.

The above Findings and Decision are hereby issued this 1st day of August 2002.

Donna M. Myers, B.S.
Medical Dispute Resolution Officer
Medical Review Division

DMM/dmm

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.