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RICK PERRY  
GOVERNOR

May 9, 2002

RQ-0546-JC

FILE # MI-42601-02  
I.D. # 42601

The Honorable John Cornyn  
Attorney General  
State of Texas  
P.O. Box 12548  
Austin, Texas 78711-2548

Dear General Cornyn:

I would like to request an opinion regarding the medical fee guideline recently adopted by the Texas Workers' Compensation Commission pursuant to Section 413.011, Labor Code, as amended by House Bill 2600, 77<sup>th</sup> Texas Legislature.

The rule adopted by the Commission, 28 T.A.C., §134.202, is based on a percentage of Medicare reimbursement. In light of the provisions in House Bill 2600, I am requesting an opinion on the following:

- Does House Bill 2600 require a fee schedule based on the Medicare conversion factor, adjusted for differences inherent in occupational medicine, or must the fee schedule be derived from a conversion factor that is developed independent of the Medicare system?
- Does the Commission's use of the Medicare reimbursement as the "benchmark" or basis for the guideline, as it has done, violate Section 413.011, Labor Code, where the statute specifically "does not adopt the Medicare fee schedule" and forbids the Commission from "adopt[ing] conversion factors or other payment adjustment factors based solely on those factors as developed by the federal Health Care Financing Administration?"

Thank you for your assistance.

Sincerely,

*Rick Perry*

Rick Perry  
Governor

RP:bpk