

MEDICAL CONTESTED CASE HEARING NO. 13044

**DECISION AND ORDER**

This case is decided pursuant to Chapter 410 of the Texas Workers' Compensation Act and Rules of the Division of Workers' Compensation adopted thereunder.

**ISSUES**

A consolidated medical contested case hearing was held on May 23, 2011<sup>1</sup> with Hearing Officer KB presiding to decide the following disputed issue –

Is the preponderance of the evidence contrary to the Medical Fee Dispute Resolution Findings and Decision that (Healthcare Provider), Petitioner, is not entitled to additional reimbursement for the compensable injury of (Date of Injury) in the amount of \$127.32 for Gabapentin 400MG CAPSULE (90 Units & 21 Units) for dates of service November 19, 2009, December 18, 2009, December 26, 2009, and January 21, 2010, in the amount \$508.35 for Hydrocodone/APAP 10/325 TAB (240 Units & 56 Units) for dates of service August 27, 2009, September 24, 2009, October 22, 2009, November 19, 2009, December 18, 2009, December 26, 2009, and January 21, 2010, and in the amount of \$503.92 for Skelaxin 800MG TABLET (90 Units & 120 Units) for dates of service August 27, 2009, September 24, 2009, and October 22, 2009, and in the amount of \$191.42 for Baclofen 20MG TABLET (90 Units & 21 Units) for dates of service October 22, 2009, November 19, 2009, December 18, 2009, December 26, 2009, and January 21, 2010?

Hearing Officer KB left Division employment in November 2012. As a decision in this matter was pending at that time, the undersigned hearing officer was assigned to review the record and issue a decision based on the evidence presented. The undersigned hearing officer reopened the record on December 27, 2012 after noticing mathematical calculation errors in the amount in dispute, above, concerning Gabapentin 400MG Capsule (Gabapentin) and Baclofen 20MG TABLET (Baclofen). The hearing officer contacted the parties in order to propose amending the amounts in dispute related to these medications to correct the errors, as well as to provide the parties with an opportunity to file additional written arguments. The record closed effective January 9, 2013. After neither party offered any objection to the hearing officer's proposed amendment of the amounts in dispute for Gabapentin and Baclofen in the issue, those amounts were changed from "\$127.32" to "\$234.23" for Gabapentin and from "\$191.42" to "\$191.31" in the amount corresponding to Baclofen.

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<sup>1</sup> This fee dispute was heard in a consolidated medical contested case hearing along with the fee disputes in (Sequence 02) and (Sequence 03).

## PARTIES PRESENT

Petitioner, (Healthcare Provider), appeared and was represented by HK, attorney. Respondent, Texas Mutual Insurance Company, Carrier, appeared and was represented by BJ, attorney. Claimant did not appear and his attendance was excused.

## BACKGROUND INFORMATION

The petitioner in this case is (Healthcare Provider), which dispenses medications within a medical facility and whose customer base is almost exclusively workers' compensation patients.

This medical contested case hearing concerned whether (Healthcare Provider) is entitled to additional reimbursement for medication – Gabapentin, Hydrocodone, Skelaxin, and Baclofen – it dispensed to Claimant for treatment of his (Date of Injury) compensable injury.

The following table serves to outline the overall dispute between (Healthcare Provider) and Carrier in this case:

**Table 1**

Date(s) of Service (DOS)	Medication / No. of Units	(Healthcare Provider) Charge to Carrier	Carrier Reimbursement to (Healthcare Provider)	Amount in Dispute
11/19/2009, 12/26/2009, 01/21/2010	Gabapentin 400MG CAPSULE / 90 Units	\$550.50 (\$183.50 x 3)	\$333.54 (\$111.18 x 3)	\$216.96 (\$72.32 x 3)
12/18/2009	Gabapentin 400MG CAPSULE / 21 Units	\$45.90	\$28.63	\$17.27
08/27/2009, 09/24/2009, 10/22/2009, 11/19/2009, 12/26/2009, 01/21/2010	Hydrocodone /APAP 10/325 TAB / 240 Units	\$1238.40 (\$206.40 x 6)	\$749.52 (\$124.92 x 6)	\$488.88 (\$81.48 x 6)
12/18/2009	Hydrocodone /APAP 10/325 TAB / 56 Units	\$51.30	\$31.83	\$19.47
08/27/2009	Skelaxin 800MG TABLET / 90 Units	\$459.00	\$331.02	\$127.98
09/24/2009, 10/22/2009	Skelaxin 800MG TABLET / 120 Units	\$1,221.40 (\$610.70 x 2)	\$845.46 (\$422.73 x 2)	\$375.94 (\$187.97 x 2)
10/22/2009, 11/19/2009, 12/26/2009, 01/21/2010	Baclofen 20MG TABLET / 90 Units	\$460.00 (\$115.00 x 4)	\$280.44 (\$70.11 x 4)	\$179.56 (\$44.89 x 4)
12/18/2009	Baclofen 20MG TABLET / 21 Units	\$32.10	\$20.35	\$11.75

The evidence presented in the hearing indicated that the reimbursement amount Carrier paid to (Healthcare Provider) for each of these medications was based on Carrier's calculation of a reasonable and customary fee for the medications. After (Healthcare Provider)'s requests for reconsideration of the reimbursement amounts were denied by Carrier, (Healthcare Provider) sought relief through the Division's Medical Fee Dispute Resolution (MFDR) section in order to obtain additional reimbursement from Carrier.

On January 12, 2011, the Division's MFDR Officer issued a decision ("Medical Fee Dispute Resolution Findings and Decision" or MFDRFD) holding that (Healthcare Provider) was not entitled to the additional reimbursement at issue from Carrier. A fair reading of the MFDRFD indicates that the Division was not provided with sufficient evidence to substantiate (Healthcare Provider)'s usual and customary (U&C) charge for the medications at issue. Following the adverse decision from MFDR, (Healthcare Provider) requested a medical contested case hearing (MCCH) to resolve the fee question in this case.

An employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury as and when needed. (Texas Labor Code §408.021). The term "health care" includes a prescription drug, medicine, or other remedy. (Texas Labor Code §401.011(19)(E)). The commissioner of the Division of Workers' Compensation is directed by statute to adopt a fee schedule for pharmacy and pharmaceutical services that will provide reimbursement rates that are fair and reasonable; assure adequate access to medications and services for injured workers; and minimize costs to employees and insurance carriers. (Texas Labor Code §408.028(f)). The commissioner adopted reimbursement methodology for prescription drugs in Rule 134.503. The current version of this rule ("Pharmacy Fee Guideline") went into effect on October 23, 2011.

Pursuant to the version of Rule 134.503 in effect at the time of the dates of service at issue in this case<sup>2</sup>, the maximum allowable reimbursement (MAR) for prescription drugs was the lesser of the provider's U&C charge for the same or similar service or a fee established by formulas based on the average wholesale price (AWP) determined by utilizing a nationally recognized pharmaceutical reimbursement system such as Redbook or First DataBank Inc. in effect on the day the prescription drug was dispensed. For generic drugs, the formula is AWP per unit multiplied by the number of units multiplied by 1.25, plus a \$4.00 dispensing fee. *See* Rule 134.503(a)(2)(A), then in effect. The evidence presented in the hearing revealed that the prescription medications at issue in this case are generic drugs. The evidence also revealed that there is no contract between (Healthcare Provider) and Carrier, so Rule 134.503(a)(3), then in effect, does not apply to the facts of this case.

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<sup>2</sup> The version of Rule 134.503 ("Reimbursement Methodology") applicable to this case was in effect from March 14, 2004 to October 22, 2011.

On December 11, 2003, RR, the Executive Director of the Texas Workers' Compensation Commission, issued Advisory 2003-21 to address the determination of a pharmacy's U&C charge for prescription drugs. In part, the Advisory states:

The Commission's pharmacy prescription pricing rule is based, in part, on several important provisions concerning health care provider charges. First, fee guidelines are based, in part, on a provision that payment may not be in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf (Texas Labor Code Section 413.011(d)). Also, "[a] health care provider commits an offense if the person knowingly charges an insurance carrier an amount greater than that normally charged for similar treatment to a payor outside the workers' compensation system, except for mandated or negotiated charges" (Texas Labor Code §413.043(a)).

Parties requesting medical dispute resolution should ensure that they abide by the statute and rule references outlined above. The Commission's Medical Dispute Resolution Section has indicated that parties filing a dispute have the burden of proof to support their position for advocating additional reimbursement. The burden of proof includes production of sufficient evidence to support that the reimbursement requested is in accordance with the factors listed in §413.011(b) of the Texas Workers' Compensation Act.

(Healthcare Provider) has the burden to establish its entitlement to the additional reimbursement it seeks. In support of its contention that it is entitled to the reimbursement at issue, (Healthcare Provider)'s Pharmacist in Charge, TH, provided an affidavit that was admitted into evidence in the hearing. Mr. H's April 29, 2011 affidavit indicates that (Healthcare Provider) makes no distinction between AWP and its U&C charges to avoid any discrepancy. (Healthcare Provider) also furnished literature and pricing information from Rx30, a professional billing and pricing hardware and software program that (Healthcare Provider) utilizes. The evidence presented in the hearing included an e-mail from MP, an employee of Rx30, who indicated that Rx30 does not calculate AWP itself, but, rather, it frequently obtains average wholesale pricing information for medications from First DataBank, Inc., a nationally recognized pharmaceutical reimbursement system. MP's e-mail indicated that AWPs may vary if sources other than First DataBank, Inc. are used. Though the evidence revealed that (Healthcare Provider) does offer a discount to customers who pay for their medications in cash, the evidence also indicated that the percentage of such customers is an extremely small one, equating to less than .0025% of (Healthcare Provider)'s quarterly business.

According to a document on Rx30 letterhead, the AWP for Gabapentin 400MG CAPSULE on the November 19, 2009, December 18, 2009, December 26, 2009, and January 21, 2010

dispensing dates was 1.5959. The following shows the calculation of MAR pursuant to Rule 134.503(a)(2)(A) for this medication for 90 and 21 units, respectively:

\$1.5959 (AWP) x 90 (# of Units) = \$143.63; \$143.63 x 1.25 = \$179.54 (rounded up from \$179.5375)

\$179.54 + \$4.00 (dispensing fee) = \$183.54

\$1.5959 (AWP) x 21 (# of Units) = \$33.51 (rounded down from 33.5139);  
\$33.51 x 1.25 = \$41.89 (rounded up from \$41.8875)

\$41.89 + \$4.00 (dispensing fee) = \$45.89

The dispensing records from (Healthcare Provider) for this medication for the period from November 17, 2009 through January 21, 2010 were persuasive in establishing that (Healthcare Provider)'s U&C charge for 90 units of the drug was \$183.50 during the period at issue. As the evidence was sufficient for (Healthcare Provider) to establish its U&C charge for 90 units of the Gabapentin 400MG CAPSULE and that such U&C charge was the lesser of the Rule 134.503(a)(2)(A) MAR formula, (Healthcare Provider) is found to be entitled to additional reimbursement in the amount of \$216.96. (Healthcare Provider)'s \$45.90 charge for 21 units of this drug on December 18, 2009 was found to be \$ 0.01 greater than the 134.503(a)(2)(A) MAR calculation. Based on the evidence presented, (Healthcare Provider) is entitled to \$17.26 (the difference between the \$45.89 MAR and Carrier's reimbursement of \$28.63) for 21 units of Gabapentin 400MG CAPSULE for the December 18, 2009 date of service.

With regard to the Hydrocodone/APAP 10/325 TAB, (Healthcare Provider) presented a document with Rx30 letterhead indicating that the AWP for this medication on the dates at issue was 0.675. As laid out in the table on p. 3, above, the amount (Healthcare Provider) charged Carrier for 240 units of the medication was \$206.40 and, for 56 units, it charged Carrier \$51.30.

The following indicates the calculation of MAR pursuant to Rule 134.503(a)(2)(A) for this medication for 240 and 56 units, respectively:

\$0.675 (AWP) x 240 (# of Units) = \$162.00; \$162.00 x 1.25 = \$202.50

\$202.50 + \$4.00 (dispensing fee) = \$206.50

\$0.675 (AWP) x 56 (# of Units) = \$37.80; \$37.80 x 1.25 = \$47.25

\$47.25 + \$4.00 (dispensing fee) = \$51.25

Though there was some indication that (Healthcare Provider) may have rounded down the overall product of the Rule 134.503(a)(2)(A) MAR calculation in its calculation for 240 units of

Hydrocodone/APAP 10/325 TAB, the dispensing records from (Healthcare Provider) for this medication for the period from August 27, 2009 through January 23, 2010 were persuasive in establishing that its U&C charge for 240 units of the drug was \$206.40 during the period at issue. As the evidence was sufficient for (Healthcare Provider) to establish its U&C charge for the Hydrocodone/APAP 10/325 TAB and that such U&C charge was the lesser of the Rule 134.503(a)(2)(A) MAR formula, (Healthcare Provider) is found to be entitled to additional reimbursement in the amount of \$488.88. (Healthcare Provider)'s \$51.30 charge for 56 units of this drug was found to be \$ 0.05 greater than the 134.503(a)(2)(A) MAR calculation. Based on the evidence presented, (Healthcare Provider) is entitled to \$19.42 (the difference between the \$51.25 MAR and Carrier's reimbursement of \$31.83) for 56 units of the Hydrocodone/APAP 10/325 TAB for the December 18, 2009 date of service.

The evidence presented in the hearing was insufficient to establish the AWP and U&C for the following medication at issue – Skelaxin 800MG. Consequently, (Healthcare Provider) is not entitled to additional reimbursement in the amount of \$503.92 for that medication.

(Healthcare Provider) presented evidence in the hearing to indicate that, according to a document with Rx30 letterhead, the AWP for Baclofen 20MG Tablet on the October 22, 2009, November 19, 2009, December 26, 2009, and January 21, 2010 dispensing dates was 0.9867. These drugs were dispensed under NDC #00-832102500. The December 18, 2009 date of service was dispensed under NDC #00-603240721 and a record from Rx30 indicates that the AWP for the medication under that NDC identifier and date of service was 1.0706.

The following indicates the calculation of MAR pursuant to Rule 134.503(a)(2)(A) for the 90 units of this medication dispensed on October 22, 2009, November 19, 2009, December 26, 2009, and January 21, 2010 –

$$\begin{aligned} \$0.9867 \text{ (AWP)} \times 90 \text{ (# of Units)} &= \$88.803 \text{ (rounded down to } \$88.80\text{)}; \\ \$88.80 \times 1.25 &= \$111.00 \end{aligned}$$

$$\$111.00 + \$4.00 \text{ (dispensing fee)} = \$115.00$$

The calculation of MAR pursuant to Rule 134.503(a)(2)(A) for the 21 units of this medication dispensed on December 18, 2009 is as follows –

$$\begin{aligned} \$1.0706 \text{ (AWP)} \times 21 \text{ (# of Units)} &= \$22.4826 \text{ (rounded down to } \$22.48\text{)}; \\ \$22.48 \times 1.25 &= \$28.10 \end{aligned}$$

$$\$28.10 + \$4.00 \text{ (dispensing fee)} = \$32.10$$

Following a careful review of the evidence presented, (Healthcare Provider) established by a preponderance of the evidence that it is entitled to additional reimbursement in the total amount of \$191.31 for the Baclofen dispensed on dates of service October 22, 2009, November 19, 2009,

December 18, 2009, December 26, 2009, and January 21, 2010. The evidence, particularly the (Healthcare Provider) dispensing records for the period of October 8, 2009 through January 28, 2010 for this medication, was persuasive in showing that (Healthcare Provider)'s U&C charge for both 90 and 21 units of this medication is the same as the amount elicited from the Rule 134.503(a)(2)(A) formula calculation.

Based on the evidence presented in the hearing, (Healthcare Provider) established entitlement to additional reimbursement in the total amount of \$933.83.

Even though all the evidence presented was not discussed, it was considered. The Findings of Fact and Conclusions of Law are based on all of the evidence presented.

### **FINDINGS OF FACT**

1. The parties present stipulated to the following facts at the May 23, 2011 hearing:
  - A. Venue is proper in the (City) Field Office of the Texas Department of Insurance, Division of Workers' Compensation.
  - B. On (Date of Injury), Claimant was an employee of (Employer).
  - C. Claimant sustained a compensable injury on (Date of Injury).
  - D. The Medical Fee Dispute Resolution Officer determined that the provider is not entitled to reimbursement in the amount described by the hearing officer in the issues.
2. Respondent delivered to Petitioner a single document stating the true corporate name of Carrier, and the name and street address of Carrier's registered agent, which document was admitted into evidence as Hearing Officer's Exhibit Number 2.
3. The version of Rule 134.503 in effect from March 14, 2004 through October 22, 2011 applies in this case.
4. On November 19, 2009, December 26, 2009, and January 21, 2010, (Healthcare Provider) dispensed 90 units of Gabapentin 400MG CAPSULE to Claimant for his compensable injury of (Date of Injury); (Healthcare Provider) billed Carrier a total of \$550.50 (\$183.50 x 3) for this medication.
5. On December 18, 2009, (Healthcare Provider) dispensed 21 units of Gabapentin 400MG CAPSULE to Claimant for his compensable injury of (Date of Injury); (Healthcare Provider) billed Carrier a total of \$45.90 for this medication.
6. On August 27, 2009, September 24, 2009, October 22, 2009, November 19, 2009, December 26, 2009 and January 21, 2010, (Healthcare Provider) dispensed 240 units of

Hydrocodone/APAP 10/325 TAB to Claimant for his compensable injury of (Date of Injury); (Healthcare Provider) billed Carrier a total of \$1,238.40 (\$206.40 x 6) for this medication.

7. On December 18, 2009, (Healthcare Provider) dispensed 56 units of Hydrocodone/APAP 10/325 TAB to Claimant for his compensable injury of (Date of Injury); (Healthcare Provider) billed Carrier a total of \$51.30 for this medication.
8. On August 27, 2009, (Healthcare Provider) dispensed 90 units of Skelaxin 800MG TABLET to Claimant for his compensable injury of (Date of Injury); (Healthcare Provider) billed Carrier a total of \$459.00 for this medication.
9. On September 24, 2009 and October 22, 2009, (Healthcare Provider) dispensed 120 units of Skelaxin 800MG TABLET to Claimant for his compensable injury of (Date of Injury); (Healthcare Provider) billed Carrier a total of \$1,221.40 (\$610.70 x 2) for this medication.
10. On October 22, 2009, November 19, 2009, December 26, 2009, and January 21, 2010, (Healthcare Provider) dispensed 90 units of Baclofen 20MG Tablet to Claimant for his compensable injury of (Date of Injury); (Healthcare Provider) billed Carrier a total of \$460.00 (\$115.00 x 4) for this medication.
11. On December 18, 2009, (Healthcare Provider) dispensed 21 units of Baclofen 20MG Tablet to Claimant for his compensable injury of (Date of Injury); (Healthcare Provider) billed Carrier a total of \$32.10 for this medication.
12. The prescription medications for which additional reimbursement was sought in this case are generic drugs.
13. There was no negotiated or contracted amount payable pursuant to Rule 134.503(a)(3).
14. (Healthcare Provider) established the average wholesale price (AWP) of Gabapentin 400MG CAPSULE, Hydrocodone/APAP 10/325 TAB, and Baclofen 20MG TABLET in this case on the dispensing dates in dispute by providing information from Rx30, a professional billing and pricing hardware and software program. Rx30 obtained this data from a nationally recognized pharmaceutical reimbursement system (First DataBank, Inc.).
15. The evidence was insufficient to show the AWP or (Healthcare Provider)'s usual and customary (U&C) charge for 90 units of Skelaxin 800MG TABLET dispensed to Claimant on August 27, 2009; (Healthcare Provider) is therefore not entitled to additional reimbursement in the amount of \$127.98 for this medication.
16. The evidence was insufficient to show the AWP or (Healthcare Provider)'s U&C charge for 120 units of Skelaxin 800MG TABLET dispensed to Claimant on September 24, 2009 and

October 22, 2009; (Healthcare Provider) is therefore not entitled to additional reimbursement in the amount of \$375.94 for this medication.

17. For the Gabapentin 400MG CAPSULE, the AWP on the dates of service in dispute (November 19, 2009, December 18, 2009, December 26, 2009, and January 21, 2010) was 1.5959 pursuant to the data furnished by Rx30.
18. For the Hydrocodone/APAP 10/325 TAB, the AWP on the dates of service in dispute (August 27, 2009, September 24, 2009, October 22, 2009, November 19, 2009, December 18, 2009, December 26, 2009, and January 21, 2010) was 0.675 pursuant to the data furnished by Rx30.
19. For the Baclofen 20MG Tablet, the AWP under NDC #00-832102500 on the October 22, 2009, November 19, 2009, December 26, 2009, and January 21, 2010 dispensing dates was 0.9867 pursuant to the data furnished by Rx30.
20. For the Baclofen 20MG Tablet, the AWP under NDC #00-603240721 on the December 18, 2009 dispensing date was 1.0706 pursuant to the data furnished by Rx30.
21. (Healthcare Provider)'s U&C charge for 90 units of Gabapentin 400MG CAPSULE on the dates of service in dispute (November 19, 2009, December 26, 2009, and January 21, 2010) was \$183.50.
22. (Healthcare Provider)'s U&C charge for 21 units of Gabapentin 400MG CAPSULE on December 18, 2009 was \$45.90.
23. (Healthcare Provider)'s U&C charge for 240 units of Hydrocodone/APAP 10/325 TAB on the dates of service in dispute (August 27, 2009, September 24, 2009, October 22, 2009, November 19, 2009, December 26, 2009, and January 21, 2010) was \$206.40.
24. (Healthcare Provider)'s U&C charge for 56 units of Hydrocodone/APAP 10/325 TAB on December 18, 2009 was \$51.30.
25. (Healthcare Provider)'s U&C charge for 90 units of Baclofen 20MG Tablet on the dates of service in dispute (October 22, 2009, November 19, 2009, December 26, 2009, and January 21, 2010) was \$115.00.
26. (Healthcare Provider)'s U&C charge for 21 units of Baclofen 20MG Tablet on December 18, 2009 was \$32.10.
27. For the 90 units of Gabapentin 400MG CAPSULE dispensed on November 19, 2009, December 26, 2009, and January 21, 2010, Carrier reimbursed (Healthcare Provider) a total of \$333.54 (\$111.18 x 3).

28. For the 21 units of Gabapentin 400MG CAPSULE dispensed on December 18, 2009, Carrier reimbursed (Healthcare Provider) a total of \$28.63.
29. For the 240 units of Hydrocodone/APAP 10/325 TAB dispensed on August 27, 2009, September 24, 2009, October 22, 2009, November 19, 2009, December 26, 2009, and January 21, 2010, Carrier reimbursed (Healthcare Provider) a total of \$749.52 (\$124.92 x 6).
30. For the 56 units of Hydrocodone/APAP 10/325 TAB dispensed on December 18, 2009, Carrier reimbursed (Healthcare Provider) a total of \$31.83.
31. For the 90 units of Baclofen 20MG Tablet dispensed on October 22, 2009, November 19, 2009, December 26, 2009, and January 21, 2010, Carrier reimbursed (Healthcare Provider) a total of \$280.44 (\$70.11 x 4).
32. For the 21 units of Baclofen 20MG Tablet dispensed on December 18, 2009, Carrier reimbursed (Healthcare Provider) a total of \$20.35.
33. The maximum allowable reimbursement (MAR) for 90 units of Gabapentin 400MG CAPSULE on the dates of service in dispute (November 19, 2009, December 26, 2009, and January 21, 2010) is \$183.50, which is \$.04 less than the amount elicited from the Rule 134.503(a)(2)(A) formula calculation.
34. The MAR for 21 units of Gabapentin 400MG CAPSULE on the December 18, 2009 date of service is \$45.89, which is equal to the amount elicited from the Rule 134.503(a)(2)(A) formula calculation.
35. The MAR for 240 units of Hydrocodone/APAP 10/325 TAB on the dates of service in dispute (August 27, 2009, September 24, 2009, October 22, 2009, November 19, 2009, December 26, 2009, and January 21, 2010) was \$206.40, which is \$0.10 less than the amount elicited from the Rule 134.503(a)(2)(A) formula calculation.
36. The MAR for 56 units of Hydrocodone/APAP 10/325 TAB on the December 18, 2009 date of service was \$51.25, which is equal to the amount elicited from the Rule 134.503(a)(2)(A) formula calculation.
37. The MAR for 90 units of Baclofen 20MG Tablet on the dates of service in dispute (October 22, 2009, November 19, 2009, December 26, 2009, and January 21, 2010) was \$115.00, which is equal to the amount elicited from the Rule 134.503(a)(2)(A) formula calculation.
38. The MAR for 21 units of Baclofen 20MG Tablet on the December 18, 2009 date of service is \$32.10, which is equal to the amount elicited from the Rule 134.503(a)(2)(A) formula calculation.

## **CONCLUSIONS OF LAW**

1. The Texas Department of Insurance, Division of Workers' Compensation, has jurisdiction to hear this case.
2. Venue is proper in the (City) Field Office.
3. A preponderance of the evidence is contrary to the Medical Fee Dispute Resolution Findings and Decision that (Healthcare Provider), Petitioner, is not entitled to additional reimbursement for the compensable injury of (Date of Injury) in the amount of \$234.22 for Gabapentin 400MG CAPSULE (90 Units & 21 Units) for dates of service November 19, 2009, December 18, 2009, December 26, 2009, and January 21, 2010, in the amount \$508.30 for Hydrocodone/APAP 10/325 TAB (240 Units & 56 Units) for dates of service August 27, 2009, September 24, 2009, October 22, 2009, November 19, 2009, December 18, 2009, December 26, 2009, and January 21, 2010, and in the amount of \$191.31 for Baclofen 20MG TABLET (90 Units & 21 Units) for dates of service October 22, 2009, November 19, 2009, December 18, 2009, December 26, 2009, and January 21, 2010.
4. A preponderance of the evidence is not contrary to the Medical Fee Dispute Resolution Findings and Decision that (Healthcare Provider), Petitioner, is not entitled to additional reimbursement in the amount of \$.01 for Gabapentin 400MG CAPSULE (21 Units) for the December 18, 2009 date of service, for \$.05 for Hydrocodone/APAP 10/325 TAB (56 Units) for the December 18, 2009 date of service, or in the amount of \$503.92 for Skelaxin 800MG TABLET (90 Units & 120 Units) for dates of service August 27, 2009, September 24, 2009, and October 22, 2009.

## **DECISION**

(Healthcare Provider), Petitioner, is entitled to additional reimbursement for the compensable injury of (Date of Injury) in the amount of \$234.22 for Gabapentin 400MG CAPSULE (90 Units & 21 Units) for dates of service November 19, 2009, December 18, 2009, December 26, 2009, and January 21, 2010, in the amount \$508.30 for Hydrocodone/APAP 10/325 TAB (240 Units & 56 Units) for dates of service August 27, 2009, September 24, 2009, October 22, 2009, November 19, 2009, December 18, 2009, December 26, 2009, and January 21, 2010, and in the amount of \$191.31 for Baclofen 20MG TABLET (90 Units & 21 Units) for dates of service October 22, 2009, November 19, 2009, December 18, 2009, December 26, 2009, and January 21, 2010.

(Healthcare Provider) is not entitled to additional reimbursement in the amount of \$.01 for Gabapentin 400MG CAPSULE (21 Units) for the December 18, 2009 date of service, for \$.05 for Hydrocodone/APAP 10/325 TAB (56 Units) for the December 18, 2009 date of service, or in the amount of \$503.92 for Skelaxin 800MG TABLET (90 Units & 120 Units) for dates of service August 27, 2009, September 24, 2009, and October 22, 2009.

**ORDER**

Carrier is liable for additional reimbursement in the amount of \$933.83 in this hearing. Claimant remains entitled to medical benefits for the compensable injury in accordance with §408.021.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RON O. WRIGHT, PRESIDENT  
6210 EAST HIGHWAY 290  
AUSTIN, TEXAS 78723**

Signed this 18<sup>th</sup> day of January, 2013.

Jennifer Hopens  
Hearing Officer