



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
518-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

MEDI-PLUS PHARMACY
PO BOX 546
BARKER TX 77413-0546

Carrier's Austin Representative Box

Box Number: 19

Respondent Name

INSURANCE CO OF THE STATE OF PA

MFDR Date Received

MAY 25, 2012

MFDR Tracking Number

M4-12-2989-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Most pharmacies participate in networks in which compensation is governed by contract for transactions subject to such contracts. We do not belong to any PBM or are not contracted with any private Insurance. Medi-Plus Pharmacy has set out to function under a unique situation that is not considered under Texas Mutual so called study of the norm U&C fee for pharmacies... **Medi-Plus pharmacy on the other hand has not merchandise to profit from but gives specific service related to workers' comp. patient.**"

Amount in Dispute: \$311.76

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Please note reimbursement was previously made utilizing a nationally recognized pharmaceutical reimbursement system (Redbook), which is in accordance with TDI Rule 134.503. No additional reimbursement is recommended at this time."

Response Submitted by: Hoffman Kelley, 5316 Hwy. 290 West, Ste. 360, Austin, TX 78735

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
November 16, 2011	HYDROCOD/APAP 10/650 TAB	\$124.70	\$124.70
December 14, 2011	HYDROCOD/APAP 10/650 TAB	\$95.53	\$95.53
January 11, 2012	HYDROCOD/APAP 10/650 TAB	\$95.53	\$95.53

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307, effective May 25, 2008 33 Texas Register 3954 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.503, effective October 23, 2011, sets out the reimbursement for the pharmaceutical services in dispute.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 3 – Charge for pharmaceuticals exceed the fees established by the Fee Schedule/UCR rates.
 - W1 – Workers Compensation State Fee Schedule Adjustment.
 - 193 – Original payment decision is being maintained. This claim was processed properly the first time.
 - 5375 – The attached billing has been re-evaluated at the request of the provider. Based on this re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted.

Issues

1. How is reimbursement established for the service(s) in dispute?
2. Did the requestor support its request for additional reimbursement?

Findings

1. Reimbursement for the service in dispute may be established by applying 28 Texas Administrative Code §134.503, effective from October 23, 2011, which states, in pertinent part:
 - (a) Applicability of this section is as follows:
 - (1) This section applies to the reimbursement of prescription drugs and nonprescription drugs or over-the-counter medications as those terms are defined in §134.500 of this title (relating to Definitions) for outpatient use in the Texas workers' compensation system, which includes claims:
 - (A) subject to a certified workers' compensation health care network as defined in §134.500 of this title;
 - (B) not subject to a certified workers' compensation health care network; and
 - (C) Subject to Labor Code §504.053(b)(2).
 - (2) This section does not apply to parenteral drugs.
 - (b) For coding, billing, reporting, and reimbursement of prescription drugs and nonprescription drugs or over-the-counter medications, Texas workers' compensation system participants shall apply the provisions of Chapters 133 and 134 of this title (relating to General Medical Provisions and Benefits—Guidelines for Medical Services, Charges, and payments, respectively).
 - (c) The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:
 - (1) The fees established by the following formulas based on the average wholesale price (AWP) determined by utilizing a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed.
 - (A) Generic drugs: $((AWP \text{ per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee = MAR;
 - (B) Brand name drugs: $((AWP \text{ per unit}) \times (\text{number of units}) \times 1.09) + \4.00 dispensing fee = MAR;
 - (C) When compounding, a single compound fee of \$15 per prescription shall be added to the calculated total for either paragraph (a)(A) or (B) of this subsection; or
 - (2) notwithstanding §133.20(e)(1) of this title (relating to Medical Bill Submission by Health Care Provider), the amount billed to the insurance carrier by the:
 - (A) health care provider;

Review of the explanation of benefits, position statements, and other documentation provided by the parties finds that: (1) no contract exists between the parties; and that (2) there are no denial codes or

assertions refuting that the amount charged is the usual and customary amount. Consequently, the MAR in this medical fee dispute is established by determining the lesser of the charged amount and the AWP formula pursuant to 28 Texas Administrative Code §134.503(c)(1).

2. 28 Texas Administrative Code §134.503(c)(1) (effective October 23, 2011) states, in pertinent part, that “The fees established by the following formulas based on the average wholesale price (AWP) determined by utilizing a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed.”

The Pharmacy Fee Guideline establishes that the Division expects AWP prices to be updated daily. Because the requestor has the burden of proof in this medical fee dispute, it must provide evidence to support that any asserted AWP values used to calculate reimbursement pursuant to §134.503(c)(1) were in effect on the day the disputed drug was dispensed. A mere assertion of the rate in effect on the day that the drug is dispensed is not sufficient.

3. The pharmaceuticals in dispute were dispensed on November 16, 2011, December 14, 2011 and January 11, 2012. After thorough review of the information and documentation provided by the parties, the Division finds:
 - The respondent did not provide any evidence to support the asserted Redbook AWP price or effective date.
 - In order to refute the carrier’s payment in this medical fee dispute, the requestor alleged that a Rx30 Pharmacy System AWP pricing of 0.9092 per unit for HYDROCOD/APAP 10/650 TAB, 120 count, NDC 00591050305; 0.9092 per unit for HYDROCOD/APAP 10/650 TAB, 90 count, NDC 00591050305 and 0.9092 per unit for HYDROCOD/APAP 10/650 TAB, 90 count, NDC 00591050305, should be used as a basis for additional reimbursement. The requestor further alleged that “The AWP used to calculate the Bill Amount is valid for the Date of Service in question.” The requestor provided evidence to support the asserted RX30 Pharmacy System AWP price and effective date.

The Division’s AWP database shows an AWP of 0.90916, dated October 31, 2001 for date of service November 16, 2011. The formula is as follows: $0.90916 \times 120 \times 1.25 + \$4.00 = \$140.37$. The respondent paid a total of \$15.67; therefore additional reimbursement of \$124.70 ($\$140.37 - 15.67$).

The Division’s AWP database shows an AWP of 0.90916, dated October 31, 2001 for date of service December 14, 2011. The formula is as follows: $0.90916 \times 90 \times 1.25 + \$4.00 = \$106.28$. The respondent paid a total of \$12.75; therefore additional reimbursement of \$93.53 ($\$106.28 - 12.75$).

The Division’s AWP database shows an AWP of 0.90916, dated October 31, 2001 for date of service January 11, 2012. The formula is as follows: $0.90916 \times 90 \times 1.25 + \$4.00 = \$106.28$. The respondent paid a total of \$12.75; therefore additional reimbursement of \$93.53 ($\$106.28 - 12.75$).

The total MAR for the services in dispute is \$352.93. The respondent paid a total of \$41.17; for that reason, the Division concludes that the requestor is entitled to additional reimbursement.

Conclusion

For the reasons stated above, the division finds that the requestor has supported its request for additional reimbursement. As a result, the amount ordered is \$311.76.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$311.76 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

February 12, 2014
Date

YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.