



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

American Specialty Pharmacy

Respondent Name

Travelers Indemnity Company

MFDR Tracking Number

M4-15-3867-01

Carrier's Austin Representative

Box Number 5

MFDR Date Received

July 27, 2015

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Duloxetine HCl 30 mg is **medically necessary:** ... to allow activities of daily living ... for anxiety secondary to injury ... for depression secondary to injury ..."

Amount in Dispute: \$146.20

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The services at issue were denied reimbursement on the basis that they did not meet medical necessity... This medical necessity dispute has not been resolved. Consequently, this Request for Medical Fee Dispute Resolution should be dismissed under Rule 133.307(f)(3)(B)

The services at issue were not provided to treat the accepted compensable injury. As noted on the prescription from Dr. Skinner, the prescription was issued to treat anxiety and depression. The Carrier has accepted only the hand and finger fractures and does not include anxiety or depression. This extent of injury dispute has not been resolved."

Response Submitted by: Travelers

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
January 26, 2015	Prescription Drug (Duloxetine HCl)	\$146.20	\$146.20

FINDINGS AND DECISION

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

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.240 sets out the procedures for payment or denial of medical bills.
3. 28 Texas Administrative Code §134.503 sets out the guidelines for billing and reimbursing pharmaceutical

services.

4. 28 Texas Administrative Code §134.540 sets out the medical necessity requirements of pharmaceutical services subject to certified networks.
5. 28 Texas Administrative Code §19.2003 provides definitions for terms related to utilization reviews.
6. 28 Texas Administrative Code §19.2009 sets out the procedures for notices of determination of utilization reviews.
7. 28 Texas Administrative Code §19.2010 provides the requirements prior to issuing adverse determinations of utilization review.
8. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 50 – These are non-covered services because this is not deemed a medical necessity by the payer.

Issues

1. Does an unresolved extent of injury issue exist for this dispute?
2. Did the insurance carrier appropriately raise medical necessity for this dispute?
3. What is the total reimbursement amount for the disputed services?
4. Is the requestor entitled to reimbursement?

Findings

1. The insurance carrier asserts in its position statement that:

The services at issue were not provided to treat the accepted compensable injury. As noted on the prescription from Dr. Skinner, the prescription was issued to treat anxiety and depression. The Carrier has accepted only the hand and finger fractures and does not include anxiety or depression. This extent of injury dispute has not been resolved.

28 Texas Administrative Code §133.307 (d)(2)(F) requires that “The response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review.” Review of the submitted documentation does not support that an extent of injury issue was introduced for the disputed services prior to the date the request for MFDR was filed with the division. Therefore, this issue will not be considered.

2. The insurance carrier denied disputed services with claim adjustment reason code 50 – “These are non-covered services because this is not deemed a medical necessity by the payer.” 28 Texas Administrative Code §134.540 (g) states,

Retrospective review. Except as provided in subsection (f)(1) of this section, drugs that do not require preauthorization are subject to retrospective review for medical necessity in accordance with §133.230 of this title (relating to Insurance Carrier Audit of a Medical Bill), §133.240 of this title (relating to Medical Payments and Denials), the Insurance Code, Chapter 1305, applicable provisions of Chapters 10 and 19 of this title.

(1) In order for an insurance carrier to deny payment subject to a retrospective review for pharmaceutical services that fall within the treatment parameters of the certified network's treatment guidelines, the denial must be supported by documentation of evidence-based medicine that outweighs the evidence-basis of the certified network's treatment guidelines.

Retrospective utilization review is defined in 28 Texas Administrative Code §19.2003 (b)(31) as,

A form of utilization review for health care services that have been provided to an injured employee. Retrospective utilization review does not include review of services for which prospective or concurrent utilization reviews were previously conducted or should have been previously conducted.

In addition, 28 Texas Administrative Code §133.240 (q) states, in relevant part,

When denying payment due to an adverse determination under this section, the insurance carrier shall comply with the requirements of §19.2009 of this title ... Additionally, in any instance where the insurance carrier is questioning the medical necessity or appropriateness of the health care services, the

insurance carrier shall comply with the requirements of §19.2010 of this title ..., including the requirement that prior to issuance of an adverse determination the insurance carrier shall afford the health care provider a reasonable opportunity to discuss the billed health care with a doctor ...

Submitted documentation does not support that the insurance carrier followed the appropriate procedures for a retrospective review denial of the disputed services outlined in 28 Texas Administrative Codes §§134.503, 19.2003 (b)(31), or §133.240 (q). Therefore, the insurance carrier did not appropriately raise medical necessity for this dispute.

3. The total reimbursement for the disputed services is established by the AWP formula pursuant to 28 Texas Administrative Code §134.503 (c), which states, in relevant part:

- (c) The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:
 - (1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by 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 per prescription = reimbursement amount...
 - (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

The requestor is seeking reimbursement for a compound of the generic drug Duloxetine HCl, NDC 57237001890. The disputed medication was dispensed on January 26, 2015. The reimbursement is calculated as follows:

Date of Service	Prescription Drug	Calculation per §134.503 (c)(1)	§134.503 (c)(2)	Lesser of §134.503 (c)(1) & (2)	Carrier Paid	Balance Due
1/26/15	Duloxetine HCl	$(7.85156 \times 30 \times 1.25) + \$4.00 = \$298.43$	\$146.20	\$146.20	\$0.00	\$146.20

4. The total reimbursement amount for the disputed services is \$146.20. The insurance carrier paid \$0.00. A reimbursement of \$146.20 is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$146.20.

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 \$146.20 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature

Laurie Garnes
Medical Fee Dispute Resolution Officer

November 17, 2015
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request 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 §141.1(d).

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