



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

Memorial Compounding Pharmacy

Respondent Name

Indemnity Insurance Co of North

MFDR Tracking Number

M4-16-0661-01

Carrier's Austin Representative

Box Number 15

MFDR Date Received

November 12, 2015

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Memorial Compounding Pharmacy's bills are not being processed in accordance to Texas Guideline Rule 133.240 Medical Payments and Denials."

Amount in Dispute: \$5,892.94

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: **December 3, 2015:** "The carrier has reconsidered the bills for the above mentioned dates of service and is processing them for payment."

Response Submitted by: Broadspire, P.O. Box 14351, Lexington, KY 40512-4351

SUMMARY OF FINDINGS

| Dates of Service | Disputed Services | Amount In Dispute | Amount Due |
|----------------------------------|-------------------|-------------------|------------|
| May 1, 2014 through May 27, 2015 | Pharmacy Services | \$5,892.94 | \$3,084.88 |

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 §134.503 sets out the requirements for pharmacy services.
3. Neither party submitted an explanation of benefits for the services in dispute.

Issues

1. Did the requestor waive the right to medical fee dispute resolution?
2. What is the applicable rule pertaining to reimbursement of the services in dispute?
3. Is the requestor due additional reimbursement?

Findings

1. Regarding the dates of service May 1, 2014, August 14, 2014, September 16, 2014, October 16, 2014 and October 30, 2014. 28 Texas Administrative Code §133.307(c)(1) states:

Timeliness. A requestor shall timely file the request with the division's MFDR Section or waive the right to MFDR. The division shall deem a request to be filed on the date the MFDR Section receives the request. A decision by the MFDR Section that a request was not timely filed is not a dismissal and may be appealed pursuant to subsection (g) of this section.

(A) A request for MFDR that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute.

The date of the services in dispute is May 1, 2014, August 14, 2014, September 16, 2014, October 16, 2014 and October 30, 2014. The request for medical fee dispute resolution was received in the Medical Fee Dispute Resolution (MFDR) Section on November 12, 2015. This date is later than one year after the date(s) of service in dispute. Review of the submitted documentation finds that the disputed services do not involve issues identified in §133.307(c)(1)(B). The Division concludes that the requestor has failed to timely file this dispute with the Division’s MFDR Section; consequently, the requestor has waived the right to medical fee dispute resolution for these dates of service. The total amount that is not eligible for review is \$2,808.06

2. This case concerns the prescription of compound drugs. 28 Texas Administrative Code §134.503 (c) states in relevant part,

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;

(B) Brand name drugs: $((AWP \text{ per unit}) \times (\text{number of units}) \times 1.09) + \4.00 dispensing fee per prescription = reimbursement amount;

(C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection;

Pursuant to provisions of Rule 134.503(c)(1), the maximum allowable reimbursement will be calculated as follows:

| Date of service | Name of Medication | Reported units | MAR (AWP per unit) x (number of units) x 1.25 + \$4.00 |
|-------------------|----------------------------------|----------------|--|
| December 15, 2014 | Meloxicam (Bulk Powder) | 60 | $194.67000 \times 60 \times 1.25 + 4 = \$14,604.25$ |
| December 29, 2014 | Tramadol (Bulk Powder) | 60 | $36.30000 \times 60 \times 1.25 + 4 = 2,726.50$ |
| January 15, 2015 | Tramadol (Bulk Powder) | 60 | $36.30000 \times 60 \times 1.25 + 4 = 2,726.50$ |
| May 8, 2015 | Tramadol (Bulk Powder) | 60 | $36.30000 \times 60 \times 1.25 + 4 = 2,726.50$ |
| May 27, 2015 | Tramadol (Bulk Powder) | 60 | $36.30000 \times 60 \times 1.25 + 4 = 2,726.50$ |
| | | Total | \$25,510.25 |

3. Based on the submitted DWC066, Box 21, the Generic NDC is for **bulk powder**, and box 23 shows 60 units of bulk powder. The total allowed amount is \$25,510.25. The requestor is seeking \$5,892.94, this amount less the amount not eligible for review as untimely request made to MFDR (\$5,892.94 - \$2,808.06 = \$3,084.88) 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 \$3,084.88.

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 \$3,084.88 plus applicable accrued interest per 28 Texas Administrative Code §134.130 due within 30 days of receipt of this Order.

Authorized Signature

| | | |
|-----------|--|--------------------------|
| _____ | <u>Peggy Miller</u> | <u>February 18, 2016</u> |
| Signature | Medical Fee Dispute Resolution Officer | 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, effective May 31, 2012, *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.