



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 RX

Respondent Name

TPCIGA for Reliance National

MFDR Tracking Number

M4-16-0069-01

Carrier's Austin Representative

Box Number 50

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: \$4,989.84

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The carrier maintains the dispute of the bill as we have a peer review that does not find Tramadol to be reasonable and necessary and per the peer review Dr. Erlichman had agreed that the claimant should be weaned off the medication (as of October 2013)."

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

SUMMARY OF FINDINGS

| Dates of Service | Disputed Service | Amount In Dispute | Amount Due |
|---|-----------------------------|-------------------|------------|
| August 15, 2014 February 28, 2015 through July 15, 2015 | Tramadol, NDC 38779-2374-09 | \$4,989.84 | \$4,366.11 |

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 §134.530 sets out the requirements for use of the closed formulary for claims not subject to certified networks.
3. 28 Texas Administrative Code §134.503 sets out the reimbursement guidelines for pharmacy services not subject to a certified network.

4. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - W – Medication is Denied

Issues

1. Did the requestor waive the right to MFDR?
2. Is the carrier's position statement supported?
3. What is the applicable rule that pertains to reimbursement?
4. Is the requestor entitled to additional reimbursement?

Findings

1. Regarding date of service August 15, 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 August 15, 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 date of service August 15, 2014.

2. The insurance carrier denied disputed service with claim adjustment reason code, W - "Medication is Denied." The respondent states in their position statement, "The carrier maintains the dispute of the bill as we have a peer review that does not find Tramadol to be reasonable and necessary and per the peer review Dr. Erlichman had agreed that the claimant should be weaned off the medication (as of October 2013)."

28 Texas Administrative Code §134.530 (g) states

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

(1) Health care, including a prescription for a drug, provided in accordance with §137.100 of this title is presumed reasonable as specified in Labor Code §413.017, and is also presumed to be health care reasonably required as defined by Labor Code §401.011(22-a).

(2) In order for an insurance carrier to deny payment subject to a retrospective review for pharmaceutical services that are recommended by the division's adopted treatment guidelines, §137.100 of this title, the denial must be supported by documentation of evidence-based medicine that outweighs the presumption of reasonableness established under Labor Code §413.017.

Although the carrier provided evidence of a review that occurred in 2013, it provided no evidence to support that a retrospective review that complies with Chapter 19, subchapter U was conducted **for the service in dispute**; nor did the carrier assert a denial of payment due to an adverse determination of medical necessity on the explanation of benefits **for the service in dispute** as required pursuant to Rule §133.240(q). The division concludes that the carrier failed to support its position statement.

3. 28 Texas Administrative Code §134.503(c) states

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: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount;

(B) Brand name drugs: $((\text{AWP 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;

The maximum allowable reimbursement will be calculated as follows:

| Date of Service | Service in Dispute | Quantity | Amount Billed | MAR $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25)$ |
|-------------------|----------------------|------------|---------------|--|
| February 28, 2015 | Tramadol Bulk Powder | 60 Bottles | \$623.73 | $36.30000 \times 60 \times 1.25 + \$4.00 = \$2,726.50$ |
| March 15, 2015 | Tramadol Bulk Powder | 60 Bottles | \$623.73 | $36.30000 \times 60 \times 1.25 + \$4.00 = \$2,726.50$ |
| March 28, 2015 | Tramadol Bulk Powder | 60 Bottles | \$623.73 | $36.30000 \times 60 \times 1.25 + \$4.00 = \$2,726.50$ |
| April 14, 2015 | Tramadol Bulk Powder | 60 Bottles | \$623.73 | $36.30000 \times 60 \times 1.25 + \$4.00 = \$2,726.50$ |
| April 30, 2015 | Tramadol Bulk Powder | 60 Bottles | \$623.73 | $36.30000 \times 60 \times 1.25 + \$4.00 = \$2,726.50$ |
| May 15, 2015 | Tramadol Bulk Powder | 60 Bottles | \$623.73 | $36.30000 \times 60 \times 1.25 + \$4.00 = \$2,726.50$ |
| July 15, 2015 | Tramadol Bulk Powder | 60 Bottles | \$623.73 | $36.30000 \times 60 \times 1.25 + \$4.00 = \$2,726.50$ |
| | | Total | \$4366.11 | \$19,085.50 |

4. The maximum allowable for the service in dispute based on NDC submitted for 60 bottles of bulk powder is \$19,085.50. The requestor is seeking \$4,989.84 however the date of service August 15, 2014 was untimely and therefore not eligible for MFDR. Therefore the amount in dispute for this date of service is deducted from the amount the requestor is seeking or $(\$4,989.84 - \$623.73 = \$4,366.11)$. This amount 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 \$4,366.11.

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 \$4,366.11 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 , 2016
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.