



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

Sompo Japan Insurance Co

MFDR Tracking Number

M4-16-0856-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

November 16, 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: \$15,182.84

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: 28 Texas Administrative Code 133.307(d)91)states in pertinent part, "The response will be deemed timely if received by the division via mail service, personal delivery, or facsimile within 14 calendar days after the date the respondent received the copy of the requestor's dispute. If the division does not receive the response information within 14 calendar days of the dispute notification, then the division may base its decision on the available information." The Division received an acknowledgment of the medical fee dispute on December 2, 2015. No response was received. Therefore, this dispute will be reviewed based on available information.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 28, 2014 through July 30, 2015	Pharmacy Services	\$15,182.84	\$12,825.49

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 reimbursement guidelines for pharmaceutical services.
3. No explanation of benefits was submitted by either party in this dispute.

Issues

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

Findings

1. 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.

Regarding the date of the services in dispute found on the following chart.

Date of Service	Service in Dispute	Name of Medication	Amount billed	Date of receipt by MFDR
August 28, 2014	38779-0388-09	Baclofen	\$609.33	November 16, 2015
September 15, 2014	38779-0388-09	Baclofen	\$609.33	November 16, 2015
September 29, 2014	38779-2461-09	Gabapentin	\$536.02	November 16, 2015
November 15, 2014	38779-0362-09	Fluriprofen	\$602.67	November 16, 2015

The request for medical fee dispute resolution was received in the Medical Fee Dispute Resolution (MFDR) Section on November 16, 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 services in dispute. The total of services not payable due to past timely filing is \$2,357.35.

2. The remaining dates of service (November 28, 2014 through July 30, 2015) are for pharmaceutical services. 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: $((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;

The maximum allowable reimbursement will be calculated as follows:

Date of service	Name of Medication	Reported units	Amount billed	MAR (AWP per unit) x (number of units) x 1.25 + \$4.00
November 28, 2014	Baclofen 100%	60	\$609.33	$\$35.63 \times 60 \times 1.25 + 4 = \$2,676.25$

November 28, 2014	Gabapentin USP 100%	60	\$536.02	$\$59.85000 \times 60 \times 1.25 + 4 = \$4,492.75$
December 15, 2014	Flurbiprofen 100%	60	\$602.67	$\$36.58000 \times 60 \times 1.25 + 4 = \$2,747.50$
January 15, 2015	Flurbiprofen 100%	60	\$602.67	$\$36.58000 \times 60 \times 1.25 + 4 = \$2,747.50$
January 29, 2015	Flurbiprofen 100%	60	\$602.67	$\$36.58000 \times 60 \times 1.25 + 4 = \$2,747.50$
February 15, 2015	Flurbiprofen 100%	60	\$602.67	$\$36.58000 \times 60 \times 1.25 + 4 = \$2,747.50$
February 28, 2015	Baclofen 100%	60	\$609.33	$\$35.63 \times 60 \times 1.25 + 4 = \$2,676.25$
March 15, 2015	Baclofen 100%	60	\$609.33	$\$35.63 \times 60 \times 1.25 + 4 = \$2,676.25$
March 29, 2015	Flurbiprofen 100%	60	\$602.67	$\$36.58000 \times 60 \times 1.25 + 4 = \$2,747.50$
April 14, 2015	Baclofen	60	\$609.33	$\$35.63 \times 60 \times 1.25 + 4 = \$2,676.25$
April 30, 2015	Flurbiprofen 100%	60	\$602.67	$\$36.58000 \times 60 \times 1.25 + 4 = \$2,747.50$
April 30, 2015	Gabapentin USP 100%	60	\$536.02	$\$59.85000 \times 60 \times 1.25 + 4 = \$4,492.75$
May 15, 2015	Flurbiprofen 100%	60	\$602.67	$\$36.58000 \times 60 \times 1.25 + 4 = \$2,747.50$
May 15, 2015	Gabapentin USP 100%	60	\$536.02	$\$59.85000 \times 60 \times 1.25 + 4 = \$4,492.75$
May 29, 2015	Gabapentin USP 100%	60	\$536.02	$\$59.85000 \times 60 \times 1.25 + 4 = \$4,492.75$
May 29, 2015	Flurbiprofen 100%	60	\$602.67	$\$36.58000 \times 60 \times 1.25 + 4 = \$2,747.50$
June 15, 2015	Gabapentin USP 100%	60	\$536.02	$\$59.85000 \times 60 \times 1.25 + 4 = \$4,492.75$
June 15, 2015	Flurbiprofen 100%	60	\$602.67	$\$36.58000 \times 60 \times 1.25 + 4 = \$2,747.50$
July 15, 2015	Flurbiprofen 100%	60	\$602.67	$\$36.58000 \times 60 \times 1.25 + 4 = \$2,747.50$
July 15, 2015	Gabapentin USP 100%	60	\$536.02	$\$59.85000 \times 60 \times 1.25 + 4 = \$4,492.75$
July 30, 2015	Gabapentin USP 100%	60	\$536.02	$\$59.85000 \times 60 \times 1.25 + 4 = \$4,492.75$
July 30, 2015	Baclofen 100%	60	\$609.33	$\$35.63 \times 60 \times 1.25 + 4 = \$2,676.25$

Based on the submitted DWC066, Box 21, the Generic NDC is for **bulk powder**. The total allowed amount is \$72,305.50. The requestor is seeking \$15,182.84 less the amount not payable to untimely request for MFDR (\$2,357.35) leaves a balance due to the requestor of \$12,825.49. 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 \$12,825.49.

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 \$12,825.49 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, 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.