



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

SENTRIX PHARMACY

Respondent Name

HARTFORD ACCIDENT & INDEMNITY

MFDR Tracking Number

M4-16-2941-01

Carrier's Austin Representative

Box Number 47

MFDR Date Received

May 24, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The insurance carrier, Hartford Insurance Company, failed to take final action on the claim within the 45 day period set forth in TAC §133.240...Sentry Pharmacy and Discount, LLC respectfully requests for the Texas Department of Insurance to issue an order awarding the requestor with the full reimbursement amount for the services involved in the dispute."

Amount in Dispute: \$1,144.85

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Non-certification letter sent to Nicholas Lagulli, MD...determination date 03/03/2016...the requested service cannot be supported."

Response Submitted by: The Harford, 300 S State St, One Park Place, Syracuse, NY 13221

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: February 23, 2016, Pharmacy services - Compound 120 Grams, \$1,144.85, \$1,144.85

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 procedure for medical bill processing by the workers' compensation insurance carrier.
3. 28 Texas Administrative Code §134.503 sets out the reimbursement for pharmacy services.
4. No explanation of benefits were found in the documentation.

## Issues

1. Did The Hartford pay, reduce or deny the disputed services not later than the 45<sup>th</sup> day after receiving the medical bill?
2. Is the requestor entitled to additional reimbursement?

## Findings

This medical fee dispute was filed by health care provider Sentrix Pharmacy on May 24, 2016. Sentrix Pharmacy (Sentrix) on its table of disputed services asserts that it was not paid by The Hartford for the compound it dispensed to a covered injured employee on February 23, 2016.

1. Sentrix contends that The Hartford failed to “take final action on the claim within the 45 day period set forth in in TAC §133.240.” Furthermore, in its reconsideration request, Sentrix also alleges that “Sentrix has not...received any sort of notification or EOBR.”

According to Texas Labor Code Sec. 408.027 (b) The Hartford was required to pay, reduce or deny the disputed services not later than the 45<sup>th</sup> day after it received the medical bill from Sentrix. Corresponding 28 Texas Administrative Code §133.240 also required The Hartford to take final action by issuing an explanation of benefits not later than the statutorily-required 45<sup>th</sup> day.

The following evidence supports that The Hartford initially received the medical bill for the services in dispute on February 29<sup>th</sup>, 2016.

- A copy of a certified mail receipt dated February 24, 2016, number 9414 8118 9956 3169 8228 95 addressed to The Hartford.
- A copy of a corresponding USPS tracking printout indicating that The Hartford received certified mail number 9414 8118 9956 3169 8228 95 on February 29, 2016.
- The Hartford’s response to MFDR acknowledging that a “NOTICE OF ADVERSE DETERMINATION” with a determination date of “03/03/2016” was sent to Nicholas Lagulli, MD. This March 3, 2016 date is reasonably consistent with the certified mail evidence provided by Sentrix. The Division clarifies that although Nicholas Lagulli, MD is mentioned in The Hartford’s response, Nicholas Lagulli, MD is not the requestor of this medical fee dispute, nor is he the provider that dispensed the disputed services.

Although there is evidence that The Hartford received a medical bill for the service in dispute on February 29, 2016, The Hartford failed to timely take the following actions:

Rule §133.240 (a) An insurance carrier **shall take final action** [emphasis added] after conducting bill review on a complete medical bill...**not later than the 45<sup>th</sup> day** [emphasis added] after the insurance carrier received a complete medical bill.”

Rule §133.240 (e) The insurance carrier **shall send the explanation of benefits** in accordance with the elements required by §133.500 and §133.501 of this title...The explanation of benefits shall be sent to:

- (1) the health care provider when the insurance carrier makes payment or denies payment on a medical bill...

Furthermore, The Hartford’s failure to timely issue an explanation of benefits to Sentrix Pharmacy creates a waiver of defenses that The Hartford raised in its response to medical fee dispute resolution. According to Rule §133.307 (d)(2)(F):

28 Texas Administrative Code §133.307 (d)(2)(F) The [carrier’s] 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.

The Division concludes that The Hartford’s failure to timely issue an appropriate explanation of benefits creates a waiver of any new defenses presented in its response to medical fee dispute. Absent any evidence to the contrary, the Division finds that the services in dispute are eligible for payment.

2. Rule at 28 Texas Administrative Code §134.503 applies to the compound in dispute and states, in pertinent part:

- (a) 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; 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; or
    - (B) pharmacy processing agent only if the health care provider has not previously billed the insurance carrier for the prescription drug and the pharmacy processing agent is billing on behalf of the health care provider.

The compound in dispute was billed by listing each drug included in the compound and calculating the charge for each drug separately as required by 28 Texas Administrative Code §134.502 (d)(2).

Each ingredient is listed below with its corresponding reimbursement amount as applicable.

Ingredient	NDC & Type	Price Gm	Total Gm	AWP Formula §134.503(a)(1)	Billed Amount §134.503(a)(2)	Lesser of (a)(1) and (a)(2)
Amantadine	38779041109 Generic	\$24.23	9.6	$(\$24.225 \times 9.6) \times 1.25 = \$290.70$	\$232.56	\$232.56
Amitriptyline	38779018908 Generic	\$18.24	2.4	$(\$18.240 \times 2.4) \times 1.25 = \$54.72$	\$43.77	\$43.77
Baclofen	38779038808 Generic	\$35.63	4.8	$(\$35.630 \times 4.8) \times 1.25 = \$213.78$	\$171.02	\$171.02
Gabapentin	38779246108 Generic	\$59.85	6.0	$(\$59.850 \times 6.0) \times 1.25 = \$448.88$	\$359.10	\$359.10
Ketoprofen	38779007805 Generic	\$10.45	12.0	$(\$10.45 \times 12.0) \times 1.25 = \$156.75$	\$125.40	\$125.40
Vesatile Cream Base	51552134308 Generic	\$ 2.50	85.2	$(\$ 2.50 \times 85.2) \times 1.25 = \$266.25$	\$213.00	\$213.00
NA	NA	NA	NA	\$15.00 fee	\$0	\$0
			Total	120		
					Total	\$1,144.85

The total reimbursement is therefore \$1,144.85. This amount is recommended.

**Conclusion**

For the reasons stated above, the Division finds that the requestor has established that reimbursement is due. As a result, the amount ordered is \$1,144.85.

**ORDER**

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$1,144.85, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

**Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Director for Medical Fee Dispute Resolution

\_\_\_\_\_  
Friday August 19, 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.**