



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 and Discount, L.L.C.

Respondent Name

El Paso ISD

MFDR Tracking Number

M4-17-0683-01

Carrier's Austin Representative

Box Number 17

MFDR Date Received

November 8, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The insurance carrier, 121 Claims failed to take final action within the 45-day period set forth in TAC §134.240. Specifically the claim was submitted on 7/22/16 and it was received by the provider on 7/26/16 ... and no action was taken on the claim. Sentrix made a good faith effort to notify the carrier of their failure to respond to the bill on 9/12/16 and it was received by the provider on 9/19/16 ... Again, no action was taken on the claim."

Amount in Dispute: \$2,488.99

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "One component of the compound medication in dispute is not included in the Division's adopted closed formulary; therefore, preauthorization for the entire compound medication was required ... because compound creams are investigational or experimental in nature, preauthorization is required under DWC Rule 134.530(b)(1)(C)."

Response Submitted by: Downs – Stanford, P.C.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 22, 2016	Pharmacy Services – Compound	\$2,488.99	\$2,488.99

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 §133.210 sets out the documentation requirements for bill submission.
3. 28 Texas Administrative Code §133.240 sets out the procedures for payment or denial of a medical bill.

4. 28 Texas Administrative Code §134.502 sets out the procedures for pharmaceutical benefits.
5. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
6. 28 Texas Administrative Code §134.530 sets out the closed formulary requirements for claims not subject to certified networks.
7. 28 Texas Administrative Code, Chapter 19 sets out the procedures for utilization review.
8. Texas Insurance Code, Chapter 4201 provides requirements related to utilization review.
9. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - Treatment Not Authorized.
 - Please provide documentation of the preauthorization received prior to filing this ODG “N” status drug.
 - 150 – Payor deems the information submitted does not support this level of service.
 - 197 – Precertification/authorization/notification absent.
 - 50 – These are non-covered services because this is not deemed a medical necessity by the payer.
 - 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

Issues

1. Is El Paso ISD’s denial of payment for medical necessity supported?
2. Is El Paso ISD’s denial of payment for documentation supported?
3. Is El Paso ISD’s denial of payment for preauthorization supported?
4. Is Sentrix Pharmacy and Discount, L.L.C. (Sentrix) entitled to reimbursement of the disputed services?

Findings

1. Sentrix is seeking reimbursement of \$2,488.99 for a compound dispensed on July 22, 2016. El Paso ISD denied the disputed compound, in part, 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 §133.240(q) states that the insurance carrier is required to comply with 28 Texas Administrative Codes §§19.2009 and 19.2010 when denying payment based on an adverse determination, “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 or, in cases of a dental plan or chiropractic services, with a dentist or chiropractor, respectively.”

Review of the submitted documentation does not support that El Paso ISD performed a retrospective utilization review of the compound in question in accordance with 28 Texas Administrative Code §133.240(q). Therefore, the division concludes that El Paso ISD’s denial of payment for this reason is not supported.

2. El Paso ISD also denied the compound, in part, with claim adjustment reason code 150 – “Payor deems the information submitted does not support this level of service.” Documentation requirements for medical bills are established by 28 Texas Administrative Code §133.210, which does not require documentation to be submitted with the bill for the service in question.

Further, the process for a carrier’s request for documentation not otherwise required by 28 Texas Administrative Code §133.210 is described in Subsection (d) as follows:

Any request by the insurance carrier for additional documentation to process a medical bill shall:

- (1) be in writing;
- (2) be specific to the bill or the bill's related episode of care;
- (3) describe with specificity the clinical and other information to be included in the response;
- (4) be relevant and necessary for the resolution of the bill;
- (5) be for information that is contained in or in the process of being incorporated into the injured employee's medical or billing record maintained by the health care provider;
- (6) indicate the specific reason for which the insurance carrier is requesting the information; and
- (7) include a copy of the medical bill for which the insurance carrier is requesting the additional documentation.

No documentation was found to support that El Paso ISD made a request for additional documentation with the specificity required by §133.210(d). The division concludes that the carrier failed to meet the requirements of 28 Texas Administrative Code 133.210(d). El Paso ISD's denial for this reason is not supported.

3. El Paso ISD also denied the compound, in part, with claim adjustment reason codes 197 – “Precertification/ authorization/notification absent,” further stating, “Treatment Not Authorized” and “Please provide documentation of the preauthorization received prior to filing this ODG “N” status drug.”

28 Texas Administrative Code §134.530(b)(1) states that preauthorization is **only** required for:

- (A) drugs identified with a status of “N” in the current edition of the *ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary*, and any updates;
- (B) any compound that contains a drug identified with a status of "N" in the current edition of the *ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary*, and any updates; and
- (C) any investigational or experimental drug for which there is early, developing scientific or clinical evidence demonstrating the potential efficacy of the treatment, but which is not yet broadly accepted as the prevailing standard of care as defined in Labor Code §413.014(a).

Provision §134.530(b)(1)(A) preauthorization requirement is not discussed in this dispute because it was not asserted by either party and is not applicable to the compound in question.

El Paso ISD indicated on its Review Analysis that the compound in question is an “N” status drug. The division finds that none of the compounded ingredients have a status of "N" in the current edition of the ODG/Appendix A. Therefore, Satrix was not required to seek preauthorization pursuant to §134.530(b)(1)(B).

Downs – Stanford, P.C., on behalf of El Paso ISD, argued that “compound creams are investigational or experimental in nature.”

The determination of a service’s investigational or experimental nature is determined on a case by case basis as a utilization review pursuant to Texas Insurance Code §4201.002. Further, Texas Insurance Code §4201.002(13) states that utilization review, in relevant part, “includes a system for prospective, concurrent, or retrospective review to determine the experimental or investigational nature of health care services.”

The division found **no evidence** that El Paso ISD engaged in a prospective or retrospective utilization review (UR) as required by Texas Insurance Code §4201.002 in order to establish that the following compound is investigational or experimental in nature:

Compound Cream in Dispute	
Ingredient	Amount
Salt Stable LS Base	170.4 gm
Baclofen 4%	9.6 gm
Amantadine 8%	19.2 gm
Amitriptyline 2%	4.8 gm
Gabapentin 5%	12.0 gm
Ketoprofen 10%	24.0 gm

Because El Paso failed to perform UR on the above listed compound, the requirement for preauthorization under §134.530(b)(1)(C) **is not triggered** in this case. El Paso ISD's preauthorization denial is therefore not supported.

4. Absent any evidence that El Paso ISD presented other defenses to Satrix before medical fee dispute resolution that conform with the requirements of Title 28, Part 2, Chapter 133, Subchapter C, the division finds that the compounds in question are eligible for reimbursement.

28 Texas Administrative Code §134.503 applies to the services in dispute and states, in pertinent 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: $((\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 compounds in dispute were 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).

Reimbursement is calculated as follows:

Ingredient	NDC & Type	Price/Unit	Total Units	AWP Formula §134.503(c)(1)	Billed Amt §134.503(c)(2)	Lesser of (c)(1) and (c)(2)
Salt Stable LS Base	00395602157 Brand Name	\$3.36	170.4 gm	\$624.07	\$572.47	\$572.47
Baclofen 4%	3877908808 Generic	\$35.63	9.6 gm	\$427.56	\$341.99	\$341.99
Amantadine 8%	38779041109 Generic	\$24.225	19.2 gm	\$581.40	\$465.19	\$465.19
Amitriptyline 2%	58597800308 Generic	\$19.15	4.8 gm	\$114.90	\$91.84	\$91.84
Gabapentin 5%	58597801407 Generic	\$62.84	12.0 gm	\$942.60	\$754.16	\$754.16
Ketoprofen 10%	58597801707 Generic	\$10.97	24.0 gm	\$329.10	\$263.34	\$263.34
NA	NA	NA	NA	\$15.00 fee	\$0.00	\$0.00
					Total	\$2,488.99

The total allowable reimbursement for the compound in dispute is \$2,488.99. 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 \$2,488.99.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$2,488.99, 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

December 8, 2017

Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §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. **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.