



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

New Hampshire Insurance Company

MFDR Tracking Number

M4-18-0583-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

November 3, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The original bill was submitted to carrier on 05/16/2017 ... Memorial did not receive any correspondence as per rule so we submitted a Request for Reconsideration ... The request was submitted and received by the carrier on 09/08/2017 still with no response."

Amount in Dispute: \$335.31

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The Requestor is not entitled to payment from this Carrier in this claim for the Meloxicam prescribed by a doctor unrelated to this claim and for a person who is not the Claimant in this claim. Nor are any of these prescriptions related to the compensable injury or authorized by the Carrier ... The Tramadol ... was denied for lack of authorization."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 3, 2017	Tramadol HCl 50 mg Tablets	\$132.46	\$97.70
May 3, 2017	Meloxicam 15 mg Tablets	\$202.85	185.69

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 fee guidelines for pharmaceutical services.
3. 28 Texas Administrative Code §134.540 sets out the closed formulary requirements for claims subject to certified networks.

4. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 197 – Payment denied/reduced for absence of precertification/authorization.
 - 5264 – Payment is denied-service not authorized.

Issues

1. Did New Hampshire Insurance Company raise a new defense pursuant to 28 Texas Administrative Code §133.307?
2. Did Memorial Compounding Pharmacy (Memorial) submit a pharmaceutical bill for the services in question?
3. Is New Hampshire Insurance Company's reason for denial of payment supported?
4. Is Memorial entitled to reimbursement for the drugs in question?

Findings

Memorial is seeking reimbursement of \$335.31 for Tramadol HCl 50 mg tablets and Meloxicam 15 mg tablets dispensed on May 3, 2017.

1. In its position statement, Flahive, Ogden & Latson argued on behalf of New Hampshire Insurance Company that the prescriptions in question were not related to the compensable injury.

28 Texas Administrative Code §133.307(d)(2)(F) states, in relevant part, "The 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."

Review of the submitted documentation finds that New Hampshire Insurance Company failed to present a relatedness denial to Memorial in accordance with 28 Texas Administrative Code §133.240 prior to the date the request for medical fee dispute resolution (MFDR) was filed. The division concludes that this defense presented in Flahive, Ogden & Latson's position statement shall not be considered for review because this assertion constitutes a new defense pursuant to 28 Texas Administrative Code §133.307(d)(2)(F).

2. Flahive, Ogden & Latson asserts that "The Requestor is not entitled to payment from this Carrier in this claim for the Meloxicam prescribed by a doctor unrelated to this claim and for a person who is not the Claimant in this claim."

While the documentation submitted to the division by Memorial did not include a copy of the pharmaceutical bill for Meloxicam, §133.307(d)(2) states that "Upon receipt of the request, the respondent shall provide any missing information not provided by the requestor and known to the respondent."

The division finds that Flahive, Ogden & Latson provided an Explanation of Bill Review dated October 18, 2017, indicating that a pharmaceutical bill, which included Tramadol and Meloxicam, was received and reviewed. The Explanation of Bill Review corresponds with the date of dispense; drugs, NDC numbers, and amounts; the claimant; and date of injury that is the subject of this medical fee dispute.

The division concludes that Memorial submitted a pharmaceutical bill for the services in question.

3. New Hampshire Insurance Company denied the disputed compound with claim adjustment reason codes 197 – "PAYMENT DENIED FOR ABSENCE OF PRECERTIFICATION/AUTHORIZATION," and 5264 – "Payment is denied-service not authorized."

28 Texas Administrative Code §134.540(b) states that preauthorization is **only** required for:

- **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 [emphasis added];**
- 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

- 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).

The division finds that the drugs in question are not identified with a status of "N" in the current edition of the ODG, Appendix A. Flahive, Ogden & Latson failed to articulate any arguments to support its denial for preauthorization. Therefore, the division concludes that the drugs in question did not require preauthorization and New Hampshire Insurance Company's denial of payment for this reason is not supported. Therefore, the disputed compound will be reviewed for reimbursement.

4. 28 Texas Administrative Code §134.503 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: **((AWP per unit) x (number of units) x 1.25) + \$4.00 dispensing fee per prescription = reimbursement amount;** [emphasis added]
 - (B) Brand name drugs: **((AWP per unit) x (number of units) x 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 division finds that the reimbursement for the disputed drugs is calculated as follows:

- Tramadol HCl 50 mg tablets $(0.83289 \times 90 \times 1.25) + \$4.00 = \$97.70$
- Meloxicam 15 mg tablets $(4.845 \times 30 \times 1.25) + \$4.00 = \$185.69$

The total reimbursement amount is \$283.39. 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 \$283.39.

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 \$283.39, 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

February 5, 2018
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.