



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

American Casualty Company of Reading Pennsylvania

MFDR Tracking Number

M4-18-0870-01

Carrier's Austin Representative

Box Number 47

MFDR Date Received

November 30, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The original bill was submitted to carrier on 06/05/2014 ... Memorial did not receive any correspondence as pre rule so we submitted a Request for Reconsideration ... We have included documentation that we submitted the original bill and then requested the carrier review bill again and we still did not get a response."

Amount in Dispute: \$498.15

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Compound medications constitute a new, non-approved and non-recognized drug and is considered investigational/experimental. Because the compound medication was investigational or experimental in nature and was not accepted as the prevailing standard of care, it required preauthorization."

Response Submitted by: Brian J. Judis

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: May 16, 2017, Pharmacy Services - Compound, \$498.15, \$0.00

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 §134.502 sets out the procedures for pharmaceutical benefits.
3. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
4. 28 Texas Administrative Code §134.540 sets out the closed formulary requirements for claims subject to

certified networks.

5. Texas Insurance Code, Chapter 4201 provides requirements related to utilization review.
6. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 197 – Precertification/authorization/notification absent.
 - XK57 – This medication has been identified as a compound drug. As an investigational or experimental drug under Texas Labor Code 413.014(a), this medication requires preauthorization prior to fulfillment.
 - 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
 - Z951 – We are unable to recommend an additional allowance since this claim was paid in accordance with the state’s fee schedule guidelines, First Health Bill Review’s usual and customary policies, and/or was reviewed in accordance with the provider’s contract with First Health.

Issues

1. Is the insurance carrier’s reason for denial of payment supported?
2. Is Memorial Compounding Pharmacy (Memorial) entitled to reimbursement of the disputed services?

Findings

1. Memorial is seeking reimbursement of \$498.15 for a compound dispensed on May 16, 2017. American Casualty Company of Reading Pennsylvania (American Casualty) denied the disputed service with claim adjustment reason codes 197 – “Precertification/authorization/notification absent,” and XK57 – “This medication has been identified as a compound drug. As an investigational or experimental drug under Texas Labor Code 413.014(a), this medication requires preauthorization prior to fulfillment.”

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

- (1) 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;
- (2) 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
- (3) 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 §134.540(b)(1) preauthorization requirement is not discussed in this dispute because it was not asserted by either party in this dispute and is not applicable to the compound in question.

While not asserted by American Casualty, Memorial was not required to seek preauthorization pursuant to §134.540(b)(2) because the billed ingredient of the compound does not have a status of “N” in the current edition of the ODG/Appendix A.

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 American Casualty 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 in question is investigational or experimental in nature:

Because American Casualty failed to perform UR on the above listed compound, the requirement for preauthorization under §134.540(b)(2) is **not triggered** in this case. American Casualty’s preauthorization denial is therefore not supported.

Absent any evidence that American Casualty presented other defenses to Memorial 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.

2. Documentation presented to the division indicates that the billed charges constitute a compound drug. 28 Texas Administrative Code §134.502(d)(2) requires that compounds to “be billed by listing each drug included in the compound and calculating the charge for each drug separately.”

The submitted documentation does not support that Memorial listed each drug in the disputed compound, calculating the charge for each drug separately. Therefore, the division concludes that Memorial is not eligible for reimbursement of the compound in question.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031, the division hereby determines the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

Authorized Signature

_____	<u>Laurie Garnes</u>	<u>February 1, 2018</u>
Signature	Medical Fee Dispute Resolution Officer	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.