



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

Liberty Mutual Fire Insurance

MFDR Tracking Number

M4-18-1029-01

Carrier's Austin Representative

Box Number 01

MFDR Date Received

December 11, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "This bill was processed and denied for no authorization. There is no authorization required ... If the pharmacy complies with the requirements outlines in the FDA regulations, the compounding drug product is exempt from Section 505 concerning the approval of drugs under new drug application process. Memorial Compounding Pharmacy is not register as an outsourcing facility. Therefore 503A applies and exempts the compounding cream in dispute."

Amount in Dispute: \$498.15

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The bill has been reviewed and denial stands as Peer review indicates per 'Official Disability Guidelines states that topical analgesics are largely experimental and there is little to no research to support the use of these'. Peer Review is attached for your review."

Response Submitted by: Liberty Mutual Insurance

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
April 30, 2017	Pharmacy Service - 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 §133.305 sets out the procedures for resolving medical disputes.
2. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
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 bills.

5. 28 Texas Administrative Code, Chapter 19 sets out the requirements for utilization review.
6. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - X435 – Based on Peer Review, further treatment is not recommended ...

Issues

1. Is Liberty Mutual Fire Insurance Company's reason for denial of payment for the compound in question supported?
2. Is Memorial Compounding Pharmacy (Memorial) eligible for reimbursement for the disputed services?

Findings

1. Memorial is seeking reimbursement of \$498.15 for 60 grams of Tramadol HCl Powder dispensed on April 30, 2017.

Liberty Mutual Fire Insurance Company (Liberty Mutual) denied the disputed drug with claim adjustment reason code X435 – "BASED ON PEER REVIEW, FURTHER TREATMENT IS NOT RECOMMENDED ..."

28 Texas Administrative Code §133.305(b) requires that "If a dispute regarding...medical necessity exists for the same service for which there is a medical fee dispute, the disputes regarding...medical necessity shall be resolved prior to the submission of a medical fee dispute for the same services in accordance with Labor Code §413.031 and §408.021."

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.

Review of the submitted documentation finds that Liberty Mutual submitted a document dated May 10, 2017, as support for a retrospective review of the disputed compound. The division concludes that the submitted documentation does not support that Liberty Mutual performed a retrospective utilization review as this document does not contain the elements of a utilization review found in 28 Texas Administrative Code §19.2009.

Liberty Mutual's denial reason is therefore not sufficiently supported. The disputed drug will consequently be reviewed per applicable guidelines.

2. Memorial asserted that "Memorial Compounding Pharmacy is not register as an outsourcing facility. Therefore 503A applies and exempts the **compounding cream in dispute** [emphasis added]."

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

Signature

Laurie Garnes
Medical Fee Dispute Resolution Officer

February 2, 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.