



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 Zurich Insurance Company

MFDR Tracking Number

M4-18-1051-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

December 11, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The above patient was prescribed medication and the carrier received and processed on 08/30/2017. This bill was processed and denied for no authorization. There is no authorization required. We submitted an Appeal/Reconsideration on 10/16/2017 and the carrier still hasn't acknowledged receipt of the reconsideration claim. The carrier received the reconsideration on 10/24/2017."

Amount in Dispute: \$747.11

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The Carrier initially returned this bill as incomplete, using the attached EOB reflecting missing information required to determine any amount due ... The Requestor did not request and receive preauthorization for this investigational or experimental compound formulation."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
April 30, 2017	Pharmaceutical Compound	\$747.11	\$747.11

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 (DWC).

Background

1. 28 Texas Administrative Code §133.2 provides definitions associated with medical billing.
2. 28 Texas Administrative Code §133.10 sets out the requirements for a complete medical bill.
3. 28 Texas Administrative Code §133.200 sets out the procedures required upon receipt of a medical bill.
4. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
5. 28 Texas Administrative Code §134.502 sets out the procedures for pharmaceutical benefits.

6. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
7. 28 Texas Administrative Code §134.530 sets out the closed formulary requirements for claims not subject to certified networks.
8. The insurance carrier denied payment with the following claim adjustment reason codes:
 - 16 – Claim service lacks information or has submission/billing error(s) which is needed for adjudication. Do not use this code for claims attachment(s)/other documentation.

Issues

1. Is the insurance carrier's reason for denial of payment supported?
2. Is a denial of payment based on preauthorization supported?
3. Is Memorial Compounding Pharmacy (Memorial) entitled to reimbursement for the compound in question?

Findings

1. Memorial is seeking reimbursement for a compound dispensed on April 30, 2017. Flahive, Ogden & Latson argued on behalf of American Zurich Insurance Company (Zurich) that "the Carrier initially returned this bill as incomplete, using the attached EOB reflecting missing information required to determine any amount due."

The only explanation of benefits denied the compound in question with claim adjustment reason code 16 as indicated above. The submitted documentation provides no evidence of receipt of an incomplete bill.¹ No evidence was provided that the insurance carrier returned an incomplete medical bill including "a document identifying the reason(s) for returning the bill."²

The Texas Department of Insurance, Division of Workers' Compensation (DWC) concludes that the insurance carrier's denial based on billing or submission errors is not supported.

2. No explanation of benefits was received by the DWC to support additional reasons for denial of payment. However, both parties state the compound considered in this dispute was denied based on preauthorization. Therefore, the DWC will address this denial.

Preauthorization is only required for:

- drugs identified with a status of "N" in the current edition of the ODG Appendix A³;
- any compound that contains a drug identified with a status of "N" in the current edition of the ODG Appendix A; and
- any investigational or experimental drug.⁴

The compound in question does not contain an ingredient identified with a status of "N" in the current edition of the ODG, Appendix A.

Flahive, Ogden & Latson, on behalf of the insurance carrier, argued that "Compound medications constitute a new, non-approved and non-recognized drug and is considered investigational/experimental."

The determination of a service's investigational or experimental nature is determined on a case by case basis through utilization review.⁵ Utilization review, includes a prospective, concurrent, or **retrospective review to determine the experimental or investigational nature** of health care services.⁶

Flahive, Ogden & Latson provided **no evidence** that the insurance carrier engaged in a prospective or retrospective utilization review to establish that the specific compound considered in this review is investigational or experimental.

¹ 28 Texas Administrative Code §133.200(a); 28 Texas Administrative Code §133.10(f)(3)

² 28 Texas Administrative Code §133.200(b)

³ *ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary*

⁴ 28 Texas Administrative Code §134.540(b)

⁵ Texas Insurance Code §19.2005(b)

⁶ Texas Insurance Code §4201.002(13)

Because the insurance carrier failed to perform utilization review on the disputed compound, the requirement for preauthorization based on a premise that the compound is investigational or experimental **is not triggered** in this case. The insurance carrier’s preauthorization denial is therefore not supported.

3. Because the insurance carrier failed to sufficiently support its denial of reimbursement, Memorial is entitled to reimbursement.

The compound in dispute was billed by listing each **drug** included in the compound and calculating the charge for each drug separately.⁷ Each ingredient is listed below with its reimbursement amount.⁸ The calculation of the total allowable amount is as follows:

Drug	NDC	Generic(G) /Brand(B)	Price /Unit	Units Billed	AWP Formula	Billed Amt	Lesser of AWP and Billed
Meloxicam	38779274601	G	\$194.67	0.18	\$43.80	\$35.04	\$35.04
Flurbiprofen	38779036209	G	\$36.58	6	\$274.35	\$210.90	\$210.90
Baclofen	38779038809	G	\$35.63	3	\$133.61	\$102.60	\$102.60
Mefenamic Acid	3877900669	G	\$123.60	1.8	\$278.10	\$222.48	\$222.48
Bupivacaine	38779052405	G	\$45.60	1.2	\$68.40	\$48.02	\$48.02
Ethoxy Diglycol	38779190301	G	\$0.34	3	\$1.28	\$1.03	\$1.03
Versapro Cream	38779252903	B	\$3.20	44.82	\$156.33	\$112.05	\$112.05
Fee	NA	NA	NA	NA	\$15.00	\$15.00	\$15.00
						Total	\$747.12

Memorial is seeking a total reimbursement of \$747.11. 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 \$747.11.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the DWC has determined the requestor is entitled to additional reimbursement for the disputed services. The DWC hereby ORDERS the respondent to remit to the requestor \$747.11, 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

November 9, 2018
Date

⁷ 28 Texas Administrative Code §134.502(d)(2)

⁸ 28 Texas Administrative Code §134.503(c)

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 DWC 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.