



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

Great West Casualty Company

MFDR Tracking Number

M4-18-1392-01

Carrier's Austin Representative

Box Number 1

MFDR Date Received

January 17, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The original bill was submitted to carrier on **08/17/2017 via Certified Mail** ... Memorial did not receive any correspondence as per rule so we submitted a Request for Reconsideration ..."

Amount in Dispute: \$425.51

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: Documentation presented to the division does not include a position statement submitted in accordance with 28 Texas Administrative Code §133.307(d) from the respondent. Accordingly, this decision is based on the information available at the time of review.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 10, 2017	Tramadol HCl 50 mg Tablets	\$132.46	\$97.70
August 10, 2017	Duloxetine HCl DR 60 mg Capsules	\$293.05	\$298.43
	Total		\$396.13

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

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §133.2 defines terms used in the medical billing and processing chapter.
- 28 Texas Administrative Code §133.10 defines the requirements for submitting a complete pharmaceutical bill.
- 28 Texas Administrative Code §133.240 sets out the requirements for payment or denial of a medical bill.
- 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
- Texas Labor Code §408.027 sets out provisions related to payment of health care providers.

7. The documentation submitted to the division does not include explanations of benefits.

Issues

1. Did Great West Casualty Company (Great West) respond to the medical fee dispute?
2. Did Great West take final action to pay, reduce, or deny the disputed services?
3. Is Memorial Compounding Pharmacy (Memorial) entitled to reimbursement for the drugs in question?

Findings

1. The Austin carrier representative for Great West is JT Parker & Associates, LLC. The carrier representative acknowledged receipt of the copy of this medical fee dispute on January 24, 2018. 28 Texas Administrative Code §133.307 states, in relevant part:

- (d) Responses. Responses to a request for MFDR shall be legible and **submitted to the division and to the requestor in the form and manner prescribed by the division** [emphasis added].
 - (1) Timeliness. The response will be deemed timely if received by the division via mail service, personal delivery, or facsimile **within 14 calendar days after the date the respondent received the copy of the requestor's dispute** [emphasis added]. If the division does not receive the response information within 14 calendar days of the dispute notification, then the division may base its decision on the available information.

Review of the documentation finds that no response has been received on behalf of Great West from JT Parker & Associates, LLC filed in accordance with 28 Texas Administrative Code §133.307(d) to date. The division concludes that Great West failed to respond in the manner and within the timeframe required. For that reason the division will base its decision on the information available.

2. Memorial is seeking \$425.51 for Tramadol HCl 50 mg tablets and Duloxetine HCl DR 60 mg capsules dispensed on August 10, 2017.

According to Texas Labor Code Sec. 408.027(b), Great West was required to pay, reduce, or deny the disputed services not later than the 45th day after it received the pharmacy bill from Memorial. Corresponding 28 Texas Administrative Code §133.240(a) required Great West to take **final action** by issuing an explanation of benefits not later than the statutorily-required 45th day. 28 Texas Administrative Code §133.2(6) defines final action as follows:

Final action on a medical bill—

- (A) sending a payment that makes the total reimbursement for that bill a fair and reasonable reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement); and/or
- (B) denying a charge on the medical bill.

Great West was not relieved of its requirement to pay, reduce, or deny the disputed services in accordance with Texas Labor Code Sec. 408.027(b). When the insurance carrier receives a medical bill, it is obligated to take the following actions pursuant to 28 Texas Administrative Code §133.240:

- (a) An insurance carrier **shall take final action** [emphasis added] after conducting bill review on a complete medical bill...not later than the 45th day after the insurance carrier received a complete medical bill...
- (e) The insurance carrier **shall send the explanation of benefits** [emphasis added] in accordance with the elements required by §133.500 and §133.501 of this title...The explanation of benefits shall be sent to:
 - (1) the health care provider when the insurance carrier makes payment or denies payment on a medical bill...

Absent any evidence that Great West raised defenses that conform to the requirements of Title 28, Part 2, Chapter 133, Subchapter C, the division concludes that the services in question are eligible for review for reimbursement in accordance with applicable rules and guidelines.

3. 28 Texas Administrative Code §134.503 applies to the compound 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: ((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 50 mg tablets (0.8329 x 90 x 1.25) + \$4.00 = \$97.70
- Duloxetine HCl 60 mg capsules (7.85151 x 30 x 1.25) + \$4.00 = \$298.43

The total reimbursement amount is \$396.13. 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 \$396.13.

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 \$396.13, 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	March 16, 2018 Date
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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.