



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)
7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645
(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Memorial Compounding Pharmacy

Respondent Name

Amguard Insurance Company

MFDR Tracking Number

M4-18-1414-01

Carrier's Austin Representative

Box Number 6

MFDR Date Received

January 17, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "These medications do not require preauthorization therefore do not need a retrospective review."

Amount in Dispute: \$555.68

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: Submitted documentation does not include a position statement from the respondent. Accordingly, this decision is based on the information available at the time of adjudication.

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: June 27, 2017, Pharmacy Services - Compound, \$555.68, \$555.68

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. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
- 197 - Precertification/authorization/notification absent.
- 216 - Based on the findings of the review organization.
- Comments: "PLN 11 FILED ON MEDICATIONS"

Issues

1. Did Amguard Insurance Company (Amguard) respond to the medical fee dispute?
2. Is the compound in question subject to dismissal based on medical necessity?
3. Is the compound in question subject to dismissal based on extent of injury?
4. Is Amguard's denial of payment based on preauthorization supported?
5. Is Memorial Compounding Pharmacy (Memorial) entitled to reimbursement for the compound in question?

Findings

1. The Austin carrier representative for Amguard is Stone, Loughlin & Swanson, LLP. Stone, Loughlin & Swanson, LLP 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.

- (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 Amguard from Stone, Loughlin & Swanson, LLP to date. The division concludes that Amguard failed to respond within the timeframe required by §133.307(d)(1). For that reason the division will base its decision on the information available.

2. Memorial is seeking reimbursement of \$555.68 for a compound dispensed on June 27, 2017. Amguard denied the disputed drug, in part, with claim adjustment reason code 216 – “Based on the findings of the review organization.”

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 Amguard failed to submit any documentation related to this denial reason. The division concludes that the submitted documentation does not support that Amguard performed a retrospective utilization review in accordance with 28 Texas Administrative Code §133.240(q) and 28 Texas Administrative Code §19.2009. The division finds that this dispute is not subject to dismissal based on medical necessity.

3. Amguard also denied the disputed drug, in part, with a comment stating, “PLN 11 FILED ON MEDICATIONS.”

28 Texas Administrative Code §133.305(b) requires that “If a dispute regarding ... extent of injury ... exists for the same service for which there is a medical fee dispute, the disputes regarding ... extent of injury ... 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.”

If the dispute involves an extent of injury dispute, 28 Texas Administrative Code §133.307(d)(2)(H) requires the insurance carrier to “attach a copy of any related Plain Language Notice in accordance with §124.2 ...” to the dispute response.

Review of the submitted documentation finds that Amguard failed to submit any documentation to support an extent of injury dispute on the claim in question. The division finds that this dispute is not subject to dismissal based on extent of injury.

4. Amguard also denied the disputed compound, in part with claim adjustment reason code 197 – “Precertification/authorization/certification absent.”

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;
- 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 compound in question does not include a drug identified with a status of “N” in the current edition of the ODG, *Appendix A*. Amguard failed to articulate any arguments to defend its denial for preauthorization. Therefore, the division concludes that the compound in question did not require preauthorization and Amguard’s denial of payment for this reason is not supported. Therefore, the disputed compound will be reviewed for reimbursement.

5. 28 Texas Administrative Code §134.503 applies to the compounds 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: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (B) Brand name drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 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 compound in dispute was billed by listing each drug included in the compound and calculating the charge for each drug separately as required by 28 Texas Administrative Code §134.502(d)(2). Each ingredient is listed below with its corresponding reimbursement amount as applicable.

Ingredient	NDC & Type	Price/ Unit	Total Units	AWP Formula §134.503(c)(1)	Billed Amt §134.503 (c)(2)	Lesser of (c)(1) and (c)(2)
Amitriptyline HCl	38779018904 Generic	\$18.24	1.8 gm	\$41.04	\$32.83	\$32.83
Baclofen	38779038809 Generic	\$35.63	5.4 gm	\$240.50	\$190.78	\$190.78
Amantadine HCl	38779041105 Generic	\$24.225	3.0 gm	\$90.84	\$72.69	\$72.69
Gabapentin USP	38779246109 Generic	\$59.85	3.6 gm	\$269.33	\$204.66	\$204.66
Bupivacaine HCl	38779052405 Generic	\$45.60	1.2 gm	\$68.40	\$54.72	\$54.72
					Total	\$555.68

The total reimbursement is therefore \$555.68. 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 \$555.68.

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 \$555.68, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

	Laurie Garnes	March 22, 2018
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.