



# 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**

Commerce & Industry Insurance Company

**MFDR Tracking Number**

M4-18-1424-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

January 17, 2018

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "The above claimant received medication and the carrier still has not acknowledged receipt of service ... The carrier denied the reconsideration based on unresolved issues of extent of injury."

**Amount in Dispute:** \$219.11

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "The date of service in dispute is July 7, 2017. The services were denied based on X977, unnecessary medical treatment or service. The claimant was examined by Dr. Charles Xeller on March 31, 2017 for a RME to address the appropriateness of medical treatment."

**Response Submitted by:** Commerce & Industry Insurance Company

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 27, 2017	Meloxicam 7.5 mg Tablets	\$152.56	\$122.83
July 27, 2017	Amitriptyline HCl 10 mg tablets	\$66.55	\$15.31

### 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 §133.305 sets out the procedures for resolving medical disputes.
- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §133.240 sets out the procedures for payment or denial of a medical bill.
- 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - X977 – Unnecessary medical treatment or service.

## Issues

1. Is Commerce & Industry 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 \$219.11 for Meloxicam 7.5 mg tablets and Amitriptyline HCl 10 mg tablets dispensed on July 27, 2017.

Commerce & Industry Insurance Company (Commerce & Industry) denied the disputed drug with claim adjustment reason code X977 – "Unnecessary medical treatment or service." In its position statement, Commerce & Industry argued that "The claimant was examined by Dr. Charles Xeller on March 31, 2017 for a RME to address the appropriateness of medical treatment."

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 Commerce & Industry submitted a document dated March 31, 2017, as support for the adverse determination. The division concludes that the submitted documentation does not support that Commerce & Industry performed a retrospective utilization review of the service in question as required by 28 Texas Administrative Code §133.240(q) for the following reasons:

- This document does not indicate or support that the health care provider – in this case, Memorial Compounding Pharmacy – was notified of the findings, or that Memorial was afforded a reasonable opportunity to discuss the billed compound, and
- This document does not contain the elements of a utilization review found in 28 Texas Administrative Code §19.2009.

Commerce & Industry's denial reason is therefore not sufficiently supported. The disputed drugs will consequently be reviewed per applicable fee guidelines.

2. 28 Texas Administrative Code §134.503 applies to the drugs 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:  $((AWP \text{ per unit}) \times (\text{number of units}) \times 1.25) + \$4.00$  dispensing fee per prescription = reimbursement amount;
      - (B) Brand name drugs:  $((AWP \text{ per unit}) \times (\text{number of units}) \times 1.09) + \$4.00$  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 division finds that the reimbursement for disputed drugs is calculated as follows:

- Meloxicam 7.5 mg tablets  $(3.1687 \times 30 \times 1.25) + \$4.00 = \$122.83$
- Amitriptyline HCl 10 mg tablets  $(0.3016 \times 30 \times 1.25) + \$4.00 = \$15.31$

The total reimbursement amount is \$138.14. 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 \$138.14.

***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 \$138.14, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

**Authorized Signature**

_____	Laurie Garnes	February 5, 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.**