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
Ace American Insurance

MFDR Tracking Number
M4-18-2534-01

Carrier's Austin Representative
Box Number 15

MFDR Date Received
March 12, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Memorial Compounding has fulfilled the required rule to receive reimbursement."

Amount in Dispute: $555.68

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The carrier takes the positions that the compound medication listed is experimental and therefore requires preauthorization."

Response Submitted by: Broadspire

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 30, 2017	Pharmacy Services - Compounds	$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 §134.530 sets out the closed formulary requirements for claims not subject to certified networks.
5. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
   - Denied – Medication not authorized

Issues

1. Is the carrier's reason for denial of payment supported?
2. Is requestor entitled to reimbursement for the compound in question?

Findings

1. The requestor is seeking reimbursement of $555.68 for a compound dispensed on September 30, 2017. The carrier states in their position statement, "The carrier takes the positions that the compound medication listed is experimental and therefore requires preauthorization."

   28 Texas Administrative Code §134.530(b)(2) 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 determination of a service's investigational or experimental nature is determined on a case by case basis as a utilization review pursuant to Texas Insurance Code §4201.002. Further, Texas Insurance Code §4201.002(13) states that utilization review, in relevant part, "includes a system for prospective, concurrent, or retrospective review to determine the experimental or investigational nature of health care services."

   The division found **no evidence** that the carrier engaged in a prospective or retrospective utilization review (UR) as required by Texas Insurance Code §4201.002 in order to establish that the following compound is investigational or experimental in nature:

Compound Cream In Dispute	
Ingredient	Amount
Baclofen	5.4
Amantadine HCL	3.0
Gabapentin USP	3.6
Bupivacaine HCL	1.2
Amitriptyline HCL	1.8

Because the carrier failed to perform UR on the above listed compound, the requirement for preauthorization under §134.530(b)(1)(C) **is not triggered** in this case. The carrier's preauthorization denial is therefore not supported.

Absent any evidence that the carrier presented other defenses to requestor before medical fee dispute resolution that conform with the requirements of Title 28, Part 2, Chapter 133, Subchapter C, the division finds that the compounds in question are eligible for reimbursement.

2. 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: ((AWP per unit) x (number of units) x 1.25) + $4.00 dispensing fee per prescription = reimbursement amount;

(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 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)
Baclofen	38779038809 Generic	$35.63	5.4	$226.69	$190.78	$190.78
Amantadine HCL	38779041105 Generic	$24.225	3.0	$94.84	$72.69	$72.69
Gabapentin USP	38779246109 Generic	$59.85	3.6	$303.25	$204.66	$204.66
Bupivacaine HCL	38779052405 Generic	$59.85	1.2	$61.00	$54.72	$54.72
Amitriptyline HCL	38779018904 Generic	$18.24	1.8	$49.60	$32.83	$32.83
					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

Signature	Medical Fee Dispute Resolution Officer	April 18, 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.