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
Imperium Insurance Company

MFDR Tracking Number
M4-18-2625

Carrier's Austin Representative
Box Number 19

MFDR Date Received
March 21, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "These medications do not require preauthorization therefore do not need a retrospective review … Memorial is not register as an outsourcing facility. Therefore 503A applies and exempts the compounding cream in dispute."

Amount in Dispute: $1,184.12

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

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 15, 2017	Pharmacy Service – Compound	$726.62	$726.62
July 15, 2017	Pharmacy Service – Compound	$457.50	$0.00
	Total	$1,184.12	$726.62

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:
   - 197 – Payment denied/reduced for absence of precertification/authorization.

- 202 – Treatment procedures were disallowed, as they did not correspond to the agreed documented treatment plan.

Issues

1. Did Imperium Insurance Company (Imperium) respond to the medical fee dispute?
2. Is Imperium's reason for denial of payment supported?
3. Is Memorial Compounding Pharmacy (Memorial) entitled to reimbursement for the compounds in question?

Findings

1. The Austin carrier representative for Imperium is Flahive, Ogden & Latson. Flahive, Ogden & Latson acknowledged receipt of the copy of this medical fee dispute on March 29, 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 Imperium from Flahive, Ogden & Latson to date. The division concludes that Imperium 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 for two compounds dispensed on July 15, 2017. Imperium denied the disputed compounds, in part, with claim adjustment reason code 197 – "PAYMENT DENIED/REDUCED FOR ABSENCE OF PRECERTIFICATION/AUTHORIZATION."

   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 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*. Imperium failed to articulate any arguments to support its denial for preauthorization. Therefore, the division concludes that the compound in question did not require preauthorization and Imperium's denial of payment for this reason is not supported.

   Imperium also denied the disputed compounds, in part, with claim adjustment reason code 202 – "TREATMENT PROCEDURES WERE DISALLOWED, AS THEY DID NOT CORRESPOND TO THE AGREED DOCUMENTED TREATMENT PLAN." Imperium failed to support this denial.

3. Because Imperium failed to support its denial of the compounds in question, they are eligible for reimbursement review.

   Documentation presented to the division by Memorial indicates that the billed charges for Baclofen Powder DSQ constitutes a compound drug. 28 Texas Administrative Code §134.502(d)(2) requires compounds to "be billed by listing each drug included in the compound and calculating the charge for each drug separately."

The submitted documentation does not support that Memorial listed each drug in this disputed compound, calculating the charge for each drug separately. Therefore, the division concludes that Memorial is not eligible for reimbursement of this compound.

Memorial also submitted billing for a compound consisting of the following ingredients:

- Meloxicam
- Flurbiprofen
- Tramadol HCl
- Cyclobenzaprine HCl
- Bupivacaine HCl
- Ethoxy Diglycol
- Versapro Cream

28 Texas Administrative Code §134.503 applies to the reimbursement of this disputed compound 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.

This compound 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)
Meloxicam	38779274601 Generic	$194.67	0.18 gm	$43.80	$35.04	$35.04
Flurbiprofen	38779036209G eneric	$36.58	4.8 gm	$219.48	$175.58	$175.58
Tramadol	38779237409 Generic	$36.30	6.0 gm	$272.25	$217.80	$217.80
Cyclobenzaprine	38779039509 Generic	$46.332	1.8 gm	$104.25	$83.39	$83.39
Bupivacaine	38779052405 Generic	$45.60	1.2 gm	$68.40	$54.72	$54.72
Ethoxy Diglycol	38779190301G eneric	$0.342	3.0 ml	$1.28	$1.03	$1.03
Versapro Cream	38779252903 Brand Name	$3.20	45.02 gm	$157.03	$144.06	$144.06
Compound Fee	NA	NA	NA	$15.00	$15.00	$15.00
					Total	$726.62

The total reimbursement is therefore $726.62. This amount is recommended.

Conclusion

The outcome of each independent medical fee dispute relies upon the relevant evidence presented by the requestor and the respondent at the time of adjudication. Though all the evidence in this dispute may not have been discussed, it was considered. 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 $726.62.

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 $726.62, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

	Laurie Garnes	July 13, 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.