



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

TASB Risk Management Fund

MFDR Tracking Number

M4-18-2707-01

Carrier's Austin Representative

Box Number 47

MFDR Date Received

March 27, 2018

REQUESTOR'S POSITION SUMMARY

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

Amount in Dispute: \$429.96

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "TASB-RMF considers any treatment that is not specifically cited, discussed, and approved in the current version of ODG, or is not FDA approved for the specific condition being treated, as being investigational or experimental.

TASB-RMF received the original bill on 9/15/17. The bill was processed timely and denied pending a letter of medical necessity.

A peer review on 7/8/17 found that the compensable injury of right shoulder strain and right lumbar strain had been resolved, the claimant continues to suffer from ordinary diseases of life, and current medications are for conditions that are unrelated to the compensable injury.

A reconsideration for the original bill was received on 1/9/18 and timely processed, no additional payment was made at that time. A letter of medical necessity was not received."

Response Submitted by: TASB Risk Management Fund

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: August 15, 2017, Baclofen Powder 100%, \$429.96, \$0.00

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 §133.210 sets out the documentation requirements for bill submission.
3. 28 Texas Administrative Code §134.502 sets out procedures for pharmaceutical services.
4. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
5. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 150 – Payment adjusted because the payer deems the information submitted does not support this level of service.
  - Please submit letter of medical necessity for the powder versus the pill form of this medication
  - 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
  - W3 – Additional payment made on appeal/reconsideration.
  - 1/25/18 – Rule 134.804 (a) Services reviewed for reconsideration. Additional payment made or service adjustment may be zero.
  - Maintain original denial.

## **Issues**

1. Did TASB Risk Management Services (TASB) raise new defenses pursuant to 28 Texas Administrative Code §133.307?
2. Is the insurance carrier's reasons for denial of payment supported?
3. Is Memorial Compounding Pharmacy (Memorial) entitled to reimbursement for the disputed service?

## **Findings**

1. Memorial is seeking reimbursement for Tramadol bulk powder 100% dispensed on August 15, 2017. TASB stated in its position statement, "TASB-RMF considers any treatment that is not specifically cited, discussed, and approved in the current version of ODG, or is not FDA approved for the specific condition being treated, as being investigational or experimental."

TASB also stated, "A peer review on 7/8/17 found that the compensable injury of right shoulder strain and right lumbar strain had been resolved, the claimant continues to suffer from ordinary diseases of life, and current medications are for conditions that are unrelated to the compensable injury."

28 Texas Administrative Code §133.307(d)(2)(F) states, in relevant part, "The response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review."

Review of the submitted documentation finds that TASB failed to present a preauthorization for investigational/experimental status or a relatedness denial to Memorial in accordance with 28 Texas Administrative Code §133.240 prior to the date the request for medical fee dispute resolution (MFDR) was filed. The division concludes that these defenses presented in TASB's position statement shall not be considered for review because these assertions constitute a new defense pursuant to 28 Texas Administrative Code §133.307(d)(2)(F).

2. TASB denied the disputed service with the following claim adjustment reason codes and notations:
  - 150 – Payment adjusted because the payer deems the information submitted does not support this level of service.
  - Please submit letter of medical necessity for the powder versus the pill form of this medication

Documentation requirements for medical bills are established by 28 Texas Administrative Code §133.210, which does not require documentation to be submitted with the pharmaceutical bill in question.

The process for a carrier's request for additional documentation not otherwise required by 28 Texas Administrative Code §133.210 is described in Subsection (d) as follows:

Any request by the insurance carrier for additional documentation to process a medical bill shall:

- (1) be in writing;
- (2) be specific to the bill or the bill's related episode of care;
- (3) describe with specificity the clinical and other information to be included in the response;
- (4) be relevant and necessary for the resolution of the bill;
- (5) be for information that is contained in or in the process of being incorporated into the injured employee's medical or billing record maintained by the health care provider;
- (6) indicate the specific reason for which the insurance carrier is requesting the information; and
- (7) include a copy of the medical bill for which the insurance carrier is requesting the additional documentation.

Regarding a request for a letter of medical necessity, 28 Texas Administrative Code §134.502(e) states:

The insurance carrier ... may request a statement of medical necessity **from the prescribing doctor** [emphasis added]. If an insurance carrier requests a statement of medical necessity, the insurance carrier shall provide the sender of the bill a copy of the request at the time the request is made. An insurance carrier shall not request a statement of medical necessity unless in the absence of such a statement the insurance carrier could reasonably support a denial based upon extent of, or relatedness to the compensable injury, or based upon an adverse determination.

No documentation was found to support that TASB made a request for additional documentation with the specificity required by §133.210(d) or in the manner required by 28 Texas Administrative Code §134.502(e). The division concludes that the carrier failed to support the reasons for denial of payment for the service in question.

3. Documentation presented to the division by Memorial indicates that the billed charges constitute 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 the disputed compound, calculating the charge for each drug separately. Therefore, the division concludes that Memorial is not eligible for reimbursement of the compound in question.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

### ***ORDER***

Based on the submitted information, pursuant to Texas Labor Code Section 413.031, the division hereby determines the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

### **Authorized Signature**

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Signature

Laurie Garnes  
Medical Fee Dispute Resolution Officer

April 24, 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.**