



# 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**

Injured Workers' Pharmacy

**Respondent Name**

Arrowood Indemnity

**MFDR Tracking Number**

M4-18-2709-01

**Carrier's Austin Representative Box**

Number 11

**Fee Dispute Request Received**

March 27, 2018

**Response Submitted by:**

Arrowpoint Capital

### REQUESTOR POSITION SUMMARY

"We have no current contract with Argus, nor AWPRx. With no contract in place, we would not be subject to the contracted rates. We expect to be paid Texas fee schedule for our pharmacy services."

### RESPONDENT POSITION SUMMARY

"The agreement for Argus and Family Care Network is attached showing relevant rates for reference. Argus has provided us with a list of all participating pharmacies as well. That spreadsheet is attached showing IWP listed on line 30294 as a participant in this network. All prescriptions are repriced per the network agreement."

### SUMMARY OF REQUEST AND DIVISION ORDER

Disputed Dates of Service	Disputed Service	Disputed Amount	Division Order
April 17, 2017 through November 6, 2017	Medications	\$2,172.21	\$2,172.21

### AUTHORITY

Texas Labor Code §413.031 (c) In resolving disputes over the amount of payment due for medically necessary services for treatment of the compensable injury, the role of the medical fee dispute resolution program is to adjudicate the payment given the relevant statutory provisions and commissioner rules.

Rule at 28 Texas Administrative Code §133.307 sets out the process for medical fee dispute resolution applicable to requestors, respondents, and the Division.

### Claim Adjustment Reason Codes

The insurance carrier reduced payment for the disputed service with the following claim adjustment reason codes:

- Explanation of Benefits (EOB) issued by AWPRx noted:
  - 90 – Ingredient cost adjustment
  - (1) – Paid

## Findings

Injured Workers' Pharmacy (IWP) was paid by Arrowood Indemnity for medications provided to a covered injured employee. Arrowood Indemnity paid and explained that payment was made in accordance with the "Family Care Pharmacy Network" rate. IWP states that they are not contracted with Family Care Pharmacy Network.

Upon reconsideration, Arrowood Indemnity generally maintained its original explanations. IWP was dissatisfied with the outcome of reconsideration and proceeded to file this medical fee dispute.

IWP has the burden to prove that the disputed amount is due. The role of the medical fee dispute resolution program is to decide whether that burden is met.

### *1. Did Arrowood Indemnity support that an informal network contract applied?*

A workers' compensation carrier may pay a health care provider fees for pharmaceutical services that are inconsistent with the fee guidelines only if the carrier has a contract with the health care provider, and only if the health care provider has been notified in the manner required by [§408.0281 \(d\) and \(e\)](#). See [Texas Labor Code §408.0281](#), Added by Acts 2011, 82nd Leg., R.S., Ch. 705 (H.B. [528](#)), Sec. 3, eff. June 17, 2011.

In this case, the carrier, Arrowood, asserts that its authorized agent, Argus, contracted with an informal network, Family Care Pharmacy Network, which claims IWP as part of its pharmacy network. Arrowood provided a copy of its contract with Argus and provided a copy of the contract between Argus and the Family Care Pharmacy Network; however, no contract between Family Care Pharmacy Network and IWP was provided, nor was there proof that the IWP received the notice required by [§408.0281 \(d\) and \(e\)](#). We note that a simple excel listing from Family Care Pharmacy Network that includes IWP as a "contracted provider" does not satisfy the requirements of Texas Labor Code §408.0281.

The division requested the missing contract and a copy of the notice on October 19, 2018. Specifically, the division requested a copy of the contract between Family Care Pharmacy Network (network) and IWP; and a copy of the notice to IWP.

We note that Labor Code §408.0281 states that an insurance carrier **shall** provide copies of each contract and the notice to the division upon request. Furthermore, ***if the requested information is not provided to the division, the insurance carrier may be required to pay fees in accordance with the division's fee guidelines.***

Arrowood failed to provide a copy of the contract between Family Care Pharmacy Network and Injured Workers' Pharmacy, nor did it provide proof that it notified IWP in the manner required by [§408.0281 \(d\) and \(e\)](#). We conclude that the Family Care Pharmacy Network discount does not apply in this case. Arrowood is therefore required to pay fees in accordance with the division's pharmacy fee guideline.

### *2. What is the total reimbursement for the service in dispute?*

Arrowood is required to pay the fees described at Rule §134.503 paragraph (c) as follows:

- (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.

Review of the reimbursement worksheet provided by IWP finds that the calculations were correctly applied in accordance with Rule §134.503(c)(1)(A) for the generic drugs in dispute and using the AWP specified by IWP.

The division concludes that the requested additional payment of \$2,172.21 is due.

**Decision**

IWP met its burden to prove that the amount of payment it seeks from Arrowood Indemnity is due. Consequently, Arrowood Indemnity is ordered to pay \$2,172.21, plus applicable accrued interest per 28 TAC §134.130

***DIVISION ORDER***

The undersigned has been delegated authority by the Commissioner of the Division of Workers’ Compensation to sign this official order. The division hereby ORDERS Arrowood Indemnity to pay \$2,172.21 plus interest to IWP within 30 days of receipt of this order.

**Authorized Signature**

		April 10, 2019
Signature	Medical Fee Dispute Resolution Director	Date

***RIGHT TO APPEAL***

Either party to this medical fee dispute may seek review of this Division decision. To appeal, submit form DWC Form-045M titled ***Request to Schedule, Reschedule, or Cancel a Benefit Review Conference to Appeal a Medical Fee Dispute Decision (BRC-MFD)*** found at <https://www.tdi.texas.gov/forms/form20numeric.html>.

Follow the instructions on pages 3 and 4. The request must be received by the division within twenty days of your receipt of this decision. This decision becomes final if the request for review of this decision is not timely made.

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.

If you have questions about the DWC Form-045M, please call CompConnection at 1-800-252-7031, Option 3 or you may email your question to [CompConnection@tdi.texas.gov](mailto:CompConnection@tdi.texas.gov)

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 1-800-252-7031, Option 1.