



# 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**

M4-18-3117-01

**Carrier's Austin Representative**

Box Number 47

**MFDR Date Received**

April 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:** "No letter of medical necessity or other supporting documentation has been submitted as requested ... A peer review on 06/30/17 indicated that current treatment and medications are not related to the compensable injury. 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."

**Response Submitted by:** TASB Risk Management Fund

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 31, 2017	Pharmaceutical Compound	\$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 §133.240 sets out the procedures for payment, denial, or reduction of medical bills.
2. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
3. 28 Texas Administrative Code §134.502 sets out the procedures for pharmaceutical services.

4. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 151 – Payment adjusted because the payer deems the information submitted does not support this many services.
  - Notes: “Please submit the necessity of powder versus pill form.”
  - W3 – Additional payment made on appeal/reconsideration.
  - Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
  - Notes: “1/25/18 – Rule 134.804 (a) Services reviewed for reconsideration.”
  - Notes: “Additional payment made or service adjustment amount may be zero.”
  - Notes: “1/25/18 – Maintain original denial”

### **Issues**

1. Did the insurance carrier raise new issues at medical fee dispute?
2. Are the insurance carrier’s reasons for denial of payment supported?
3. Is the requestor entitled to reimbursement for the service in question?

### **Findings**

1. In its position statement, TASB Risk Management Fund (TASB) argued that a “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,” and “A peer review on 06/30/17 indicated that current treatment and medications are not related to the compensable injury.”

The insurance carrier may only address denial reasons raised before the request for medical fee dispute resolution (MFDR) was requested. Any other issues raised in the response will not be considered.<sup>1</sup>

The documents submitted to the division do not show that TASB gave denial reasons related to compensability/ relatedness or the investigational/experimental status to Memorial Compounding Pharmacy (Memorial) before the date the request for MFDR was filed.<sup>2</sup> The division concludes that these arguments in TASB’s position statement will not be considered for review because they are new defenses.

2. TASB denied the disputed service with claim adjustment reason code 151 – “Payment adjusted because the payer deems the information submitted does not support this many services,” and made the additional notation, “Please submit the necessity of powder versus pill form.”

Documentation is not required to be submitted with the bill for the disputed service.<sup>3</sup> The process to request additional documentation is required to:

- be in writing;
- be specific to the bill;
- specifically describe the information needed;
- be relevant and necessary to review the bill;
- be for information that is in or will be in the injured employee's medical or billing record held by the health care provider;
- give the exact reason that the insurance carrier needs the information; and
- include a copy of the bill in question.<sup>4</sup>

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<sup>1</sup> 28 Texas Administrative Code §133.307(d)(2)(F)

<sup>2</sup> 28 Texas Administrative Code §133.240 explains how the insurance carrier is required to introduce denials and payment reductions to the requestor.

<sup>3</sup> 28 Texas Administrative Code §133.210(b) & (c)

<sup>4</sup> 28 Texas Administrative Code §133.210(d)

TASB also argued that “No letter of medical necessity or other supporting documentation has been submitted as requested a request for a letter of medical necessity from the prescribing physician.”

If the insurance carrier asks the prescribing doctor for a letter of medical necessity, the insurance carrier is required to submit a copy of the request to the sender of the bill. The insurance carrier can only request a letter of medical necessity if a denial based on the extent of, or relatedness to the compensable injury, or based on medical necessity as determined by utilization review can be supported without the letter of medical necessity.<sup>5</sup>

The evidence submitted to the division does not support that TASB made a request for additional information or a letter of medical necessity as described above. The division finds that TASB failed to support its denial reasons.

3. Memorial is seeking reimbursement for Baclofen 100% dispensed on August 31, 2017. The position statement submitted to the division by Memorial indicates that the billed charge is for a compound drug. Compounds are required to “be billed by listing each drug included in the compound and calculating the charge for each drug separately.”<sup>6</sup>

The evidence submitted to the division 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**

_____	<u>Laurie Garnes</u>	<u>September 12, 2018</u>
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.**

<sup>5</sup> 28 Texas Administrative Code §134.502(e)

<sup>6</sup> 28 Texas Administrative Code §134.502(d)(2)