



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645

(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Memorial Compounding Pharmacy

Respondent Name

Indemnity Insurance Company of North America

MFDR Tracking Number

M4-18-3767-01

Carrier's Austin Representative

Box Number 15

MFDR Date Received

June 4, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "These medications do not require preauthorization therefore do not need a retrospective review."

Amount in Dispute: \$566.53

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Respondent maintains it's position in the denial that the compound medication required preauthorization because, compound medications constitute a new, non-approved and non-recognized drug and is considered investigational/experimental."

Response Submitted by: Downs-Stanford, P.C.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 19, 2017	Pharmaceutical Compound	\$566.53	\$566.53

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 (DWC).

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. Texas Insurance Code §1305 provides the guidelines for certified health care networks.

6. The insurance carrier denied payment based on the following claim adjustment reason codes:
- 230 – Treatment not authorized.
 - 716- Bill has been returned as alternate vendor; not a Genex bill review account/client.
 - 242 – Services not provided by network/primary care providers.
 - A1 – Claim/service denied.
 - CO – Contractual Obligation
 - PI – Payer Initiated.

Issues

1. Is the insurance carrier's reason for denial of payment based on network requirements supported?
2. Is the insurance carrier's reason for denial of payment based on preauthorization supported?
3. Is Memorial Compounding Pharmacy (Memorial) entitled to reimbursement for the compound in question?

Findings

1. Memorial is seeking reimbursement for a compound dispensed on September 19, 2017. The insurance carrier denied the compound, in part, based on network requirements.

Prescription medications may not be delivered through a health care network and are paid based on Texas workers' compensation statutes and rules.¹

The Texas Department of Insurance, Division of Workers' Compensation (DWC) concludes that the disputed prescription medication dispensed by the provider in this case – Memorial Compounding Pharmacy – is not subject to the provisions of a workers' compensation health care network. The insurance carrier's denial for this reason is not supported.

2. The insurance carrier also denied the disputed compound based on preauthorization. Preauthorization is only required for:
 - drugs identified with a status of "N" in the current edition of the ODG Appendix A²;
 - any compound that contains a drug identified with a status of "N" in the current edition of the ODG Appendix A; and
 - any investigational or experimental drug.³

The compound in question does not contain an ingredient identified with a status of "N" in the current edition of the ODG, Appendix A.

Downs-Stanford, P.C., on behalf of the insurance carrier, argued that "compound medications constitute a new, non-approved and non-recognized drug and is considered investigational/experimental."

The determination of a service's investigational or experimental nature is determined on a case by case basis through utilization review.⁴ Utilization review, includes a prospective, concurrent, or **retrospective review to determine the experimental or investigational nature** of health care services.⁵

Downs-Stanford, P.C. provided **no evidence** that the insurance carrier engaged in a prospective or retrospective utilization review to establish that the specific compound considered in this review is investigational or experimental.

Because the insurance carrier failed to perform utilization review on the disputed compound, the requirement for preauthorization based on a premise that the compound is investigational or experimental **is not triggered** in this case. The insurance carrier's preauthorization denial is therefore not supported.

¹ Texas Insurance Code §1305.101(c)

² *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary*

³ 28 Texas Administrative Code §134.540(b)

⁴ Texas Insurance Code §19.2005(b)

⁵ Texas Insurance Code §4201.002(13)

3. Because the insurance carrier failed to sufficiently support its denial of reimbursement, Memorial is entitled to reimbursement.

The compound in dispute was billed by listing each drug included in the compound and calculating the charge for each drug separately.⁶ Each ingredient is listed below with its reimbursement amount.⁷ The calculation of the total allowable amount is as follows:

Drug	NDC	Generic(G) /Brand(B)	Price /Unit	Units Billed	AWP Formula	Billed Amt	Lesser of AWP and Billed
Meloxicam	38779274601	G	\$194.67	0.18	\$43.80	\$35.04	\$35.04
Flurbiprofen	38779036209	G	\$36.58	4.8	\$219.48	\$175.58	\$175.58
Tramadol	38779237409	G	\$36.30	6	\$272.25	\$217.80	\$217.80
Cyclobenzaprine	38779039509	G	\$46.33	1.8	\$104.25	\$83.39	\$83.39
Bupivacaine	38779052405	G	\$45.60	1.2	\$68.40	\$54.72	\$54.72
						Total	\$566.53

The total reimbursement is therefore \$566.53. 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 \$566.53.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the DWC has determined the requestor is entitled to additional reimbursement for the disputed services. The DWC hereby ORDERS the respondent to remit to the requestor \$566.53, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

Signature

Laurie Garnes
Medical Fee Dispute Resolution Officer

November 19, 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 DWC 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.

⁶ 28 Texas Administrative Code §134.502(d)(2)

⁷ 28 Texas Administrative Code §134.503(c)