



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

American Zurich Insurance Company

MFDR Tracking Number

M4-19-0473-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

September 27, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The carrier has received the attached bill and has not processed according to Texas Labor Code 408.027."

Amount in Dispute: \$105.70

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Memorial should send its bill directly to the PBM ... Memorial dropped the bill to paper and sent directly to the Carrier."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: April 11, 2018, Gabapentin 100 mg capsules, \$105.70, \$64.24

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 or denial of a medical bill.
2. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
3. Texas Labor Code §408.027 sets out the requirements for payment to the health care provider.
4. The submitted documentation does not include explanations of benefits.

**Issues**

1. Did the insurance carrier raise a new defense in its response?
2. Is Memorial Compounding Pharmacy (Memorial) entitled to reimbursement of the compound in question?

**Findings**

1. Memorial is seeking reimbursement for Gabapentin 100 mg capsules that were dispensed on April 11, 2018. Flahive, Ogden & Latson made arguments for non-payment of the drugs in its position statement.

The response from the insurance carrier is required to address only the denial reasons presented to the requestor the request for medical fee dispute resolution (MFDR) was filed with the Texas Department of Insurance, Division of Workers’ Compensation (DWC). Any new denial reasons or defenses raised shall not be considered in this review.<sup>1</sup>

The submitted documentation does not support that any denial was provided to Memorial<sup>2</sup> before this request for MFDR was filed. Therefore, the DWC will not consider the arguments raised in its position statement in the current dispute review.

2. Because the insurance carrier failed to support any denial of payment, Memorial is entitled to reimbursement.

The reimbursement for the drugs considered in this dispute is calculated as follows<sup>3</sup>:

- Gabapentin 100 mg capsules:  $(0.5355 \times 90 \times 1.25) + \$4.00 = \$64.24$

The total reimbursement is therefore \$64.24. 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 DWC finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$64.24.

***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 \$64.24, 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 13, 2018  
Date

<sup>1</sup> 28 Texas Administrative Code §133.307(d)(2)(F)  
<sup>2</sup> 28 Texas Administrative Code §133.240(a); Texas Labor Code §408.027(b)  
<sup>3</sup> 28 Texas Administrative Code §134.503(c)

### ***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 DWC 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.**