



# 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**

XL Insurance America, Inc.

**MFDR Tracking Number**

M4-19-0735-01

**Carrier's Austin Representative Box**

BOX 19

**Fee Dispute Request Received**

October 11, 2018

#### REQUESTOR POSITION SUMMARY

"The carrier has received the attached bill and has not processed according to Texas Labor Code 408.027."

#### RESPONDENT

The insurance carrier's Austin representative acknowledged receipt of the copy of this medical fee dispute on October 18, 2018. The insurance carrier's response is considered timely if it is submitted within 14 calendar days after the date the insurance carrier's representative received the copy of the dispute. If a response is not received within 14 calendar days of the dispute notification, then the decision may be based on the available information.<sup>1</sup>

No response has been received on behalf of XL Insurance America, Inc. to date. For that reason, the decision will be based on the information available.

#### SUMMARY OF REQUEST AND DIVISION ORDER

Disputed Date of Service	Disputed Service	Disputed Amount	Division Order
May 23, 2018	Lyrica 150 mg Capsules	\$860.11	\$860.11
May 23, 2018	Tramadol HCl 50 mg Tablets	\$257.40	\$253.87
Total		\$1,117.51	\$1,113.98

#### 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 28 Texas Administrative Code §133.307 sets out the process for medical fee dispute resolution for non-network care. Non-network health care--Health care not delivered or arranged by a certified workers' compensation health care network as defined in Insurance Code Chapter 1305 and related rules. "Non-network health care" includes health care delivered pursuant to Labor Code §408.0281 and §408.0284.

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

## Background

### Work Comp Carrier's Obligation to Respond to a Medical Bill

It is the duty of the workers' compensation insurance carrier or an agent acting on the carrier's behalf to pay, reduce, or deny a complete medical bill within 45 days from the date of receipt. A carrier's 45-day deadline to make or deny payment is **not extended** as a result of an audit under 28 Texas Administrative Code §133.230, or as a result of a pending request for additional documentation.<sup>2</sup>

Further, the insurance carrier **shall** notify the health care provider of its final action<sup>3</sup> by issuing an explanation of benefits (EOB) and shall include on its EOB any bill reductions, denial reasons, and defenses in the form and manner required by 28 TAC §133.240.<sup>4</sup>

## Findings

The provider, Memorial Compounding Pharmacy, requested payment from XL Insurance America, Inc. for Lyrica 150 mg capsules and Tramadol HCl 50 mg tablets provided to a covered injured employee. XL Insurance America, Inc. did not pay, reduce, or deny the complete medical bill in 45 days. Due to XL Insurance America, Inc.'s failure to take final action and timely issue an EOB, the provider then asked for reconsideration and requested an EOB as required.<sup>5</sup> XL Insurance America, Inc. did not respond to the request for reconsideration. The provider then filed for medical fee dispute resolution (MFDR).

1. *Did XL Insurance America, Inc. timely present denial reasons to the provider before the filing of this fee dispute?*

No evidence was presented by XL Insurance America, Inc. or its agent to support that it responded to the complete medical bill within 45 days; nor did XL Insurance America, Inc. or its agent present any evidence to support that it responded to the request for reconsideration and request for an EOB. XL Insurance America, Inc. therefore failed to present any denial reasons or defenses to the provider before the filing of this medical fee dispute.

XL Insurance America, Inc. failed to present any defenses that conform with the requirements of 28 TAC §133.240 and 133.250 discussed above. Absent any evidence that XL Insurance America, Inc. or an agent acting on XL Insurance America, Inc.'s behalf timely presented any defenses to the provider that conform with the requirements of Title 28, Part 2, Chapter 133, Subchapter C, the DWC finds that the compound is eligible for reimbursement.

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

Rule 28 Texas Administrative Code §134.503 applies to the reimbursement of the service in question. The calculation of the total allowable amount is as follows:

- Lyrica 150 mg capsules:  $(\$8.91789 \times 30 \times 1.09) + \$4.00 = \$878.85$   
Memorial Compounding Pharmacy is seeking reimbursement of \$860.11 for this drug. This amount is recommended.
- Tramadol HCl 50 mg tablets:  $(\$0.83289 \times 240 \times 1.25) + \$4.00 = \$253.87$

The total reimbursement is therefore \$1,113.98. This amount is recommended.

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<sup>2</sup>28 Texas Administrative Code §133.240 (a)

<sup>3</sup> 28 Texas Administrative Code §133.2 (6) Final action on a medical bill-- (A) sending a payment...(B) denying a charge on the medical bill.

<sup>4</sup> 28 Texas Administrative Code §133.240 (e) The insurance carrier shall send the explanation of benefits in accordance with the elements required by §133.500 and §133.501...if the insurance carrier submits the explanation of benefits in the form of an electronic remittance. The insurance carrier shall send an explanation of benefits in accordance with subsection (f) of this section if the insurance carrier submits the explanation of benefits in paper form.

<sup>5</sup> 28 Texas Administrative Code §133.250

**Decision**

For the reasons above, the division finds that reimbursement is due. As a result, the amount ordered is \$1,113.98.

***DIVISION ORDER***

The division has determined that the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$1,113.98, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

**Authorized Signature**

	Laurie Garnes	March 27, 2019
Signature	Medical Fee Dispute Resolution Officer	Date

***RIGHT TO APPEAL***

Either party to this medical fee dispute may seek review of this division decision. To appeal, submit form division 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 submitted within twenty days.

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 division 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.