



# 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 RX

**Respondent Name**

INSURANCE CO OF THE STATE OF PA

**MFDR Tracking Number**

M4-19-1342-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

November 8, 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:** \$798.06

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Gallagher Bassett stands by its original denial of these prescription medications for lack of preauthorization."

**Response Submitted by:** Ricky D. Green, PLLC

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
April 28, 2018	Compound Medication	\$798.06	\$798.06

#### 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, effective January 17, 2011, 35 TexReg 11344, sets out the closed formulary requirements for claims not subject to certified networks.
5. The insurance carrier denied payment based on the absence of preauthorization.

## Issues

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

## Findings

1. Memorial is seeking reimbursement for a compound dispensed on April 28, 2018. The insurance carrier denied the disputed compound based on preauthorization. Preauthorization is only required for:
  - (A) drugs identified with a status of "N" in the current edition of the ODG Appendix A<sup>1</sup>;
  - (B) any compound that contains a drug identified with a status of "N"; and
  - (C) any investigational or experimental drug. See 28 TAC §134.530, effective January 17, 2011, 35 TexReg 11344.

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

A finding that a service is investigational or experimental in nature must be made on a case by case basis by a certified utilization review agent. Utilization review (UR) is defined as a system that includes determining the experimental or investigational nature of health care services. See Insurance Code, Section 4201.

The information and documentation sent to the DWC does not include evidence that UR was performed as required. The DWC finds that the carrier did not support that this compound required preauthorization. See 28 TAC §134.530(b)(1)(C).

For this reason, the insurance carrier's preauthorization denial is not supported.

2. 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. See 28 TAC §134.502(d)(2). Each ingredient is listed below with its reimbursement amount. See 28 TAC §134.503(c). 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
Flurbiprofen	38779036209	G	\$36.58	6	\$274.35	\$219.48	\$219.48
Meloxicam	38779274601	G	\$194.67	0.18	\$43.80	\$35.04	\$35.04
Mefenamic Acid	38779066906	G	\$123.60	1.8	\$278.10	\$222.48	\$222.48
Baclofen	38779038809	G	\$35.63	3	\$133.61	\$106.89	\$106.89
Bupivacaine	38779052405	G	\$45.60	1.2	\$68.40	\$54.72	\$54.72
Ethoxy Diglycol	38779052405	G	\$0.34	3	\$1.28	\$1.03	\$1.03
Versapro Cream	38779252903	B	\$3.20	44.82	\$156.33	\$143.42	\$143.42
Fee	NA	NA	NA	NA	\$15.00	\$15.00	\$15.00
						Total	\$798.06

The total reimbursement is therefore \$798.06. This amount is recommended.

## Conclusion

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 \$798.06.

## **ORDER**

<sup>1</sup> ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary

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 \$798.06, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

**Authorized Signature**

	Laurie Garnes	November 15, 2019
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 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.**