



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 RX

Respondent Name

New Hampshire Insurance Co

MFDR Tracking Number

M4-19-1797-01

Carrier's Austin Representative Box

BOX 19

Fee Dispute Request Received

November 28, 2018

Response Submitted by:

Flahive Ogden & Latson

REQUESTOR POSITION SUMMARY

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

RESPONDENT POSITION SUMMARY

"The Extent of Injury/Relatedness Dispute is unresolved."

SUMMARY OF REQUEST AND DIVISION ORDER

Disputed Date of Service	Disputed Service	Disputed Amount	Division Order
July 18, 2018	Medications	\$293.11	\$222.75

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 applicable to requestors, respondents, and the division.

Background

Medical Bill Processing

Statutory timeframes are set for both submission of a medical bill, and payment, reduction or denial of a medical bill. See Texas Labor Code, Section 408.027. Specifically, it is the health care provider's duty to file a complete¹ medical bill within 95 days. 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. An insurance carrier's 45-day deadline to make or deny payment is **not extended** as a result of an audit under 28 Texas

¹ 28 Texas Administrative Code §133.2(4) Complete medical bill--A medical bill that contains all required fields as set forth in the billing instructions for the appropriate form specified in §133.10 of this chapter ... or as specified for electronic medical bills in §133.500 of this chapter

Administrative Code §133.230, or as a result of a pending request for additional documentation.²

Further, the insurance carrier shall notify the health care provider of its final action³ 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 §133.240.⁴ No provision permits the insurance carrier to delay its final action past 45 days on a **complete** medical bill. Additionally, no provision excuses the carrier from issuing an explanation of benefits to the billing provider when it pays reduces or denies a complete medical bill.

Carrier's Failure to Timely Present Denial Reasons

Under Rule §133.307, the division only reviews those denial reasons and defenses presented by the carrier prior to the date the request for MFDR was filed. Any denial reasons or defenses raised by the carrier after the filing of the dispute are not considered in the review.⁵

Carrier Waiver of Defense to Medical Bill Payment based on Extent of Injury and/or Relatedness

In *State Office of Risk Management v. Mary Lawton*, the Texas Supreme Court concluded that a carrier is required to present such defenses within 45 days from the date that it received a complete medical bill.

The Texas Supreme Court opined, in pertinent part:

If a carrier receives a medical bill that involves treatment(s) or service(s) that the carrier believes is not related to the compensable injury, the carrier shall file a notice of dispute of extent of injury (notice of dispute). The notice of dispute shall be filed . . . not later than the earlier of: (1) the date the carrier denied the medical bill; or (2) the due date for the carrier to pay or deny the medical bill as provided in Chapter 133 of this title (relating to General Medical Provisions)...A carrier has up to forty-five days from the date it receives a complete medical bill to dispute whether that treatment was necessary. See 28 TEX. ADMIN. CODE §§ 124.3(e); 133.240(a).

A carrier or its authorized agent is duty-bound to present extent of injury/relatedness denial reason(s) to the health care provider on an EOB if the carrier denies payment based upon a pending extent of injury or relatedness dispute. If the carrier fails to do so, the carrier has waived such defenses on that individual medical bill.

Findings

The provider, MEMORIAL COMPOUNDING RX, provided sufficient evidence to support that it requested payment from New Hampshire Insurance Co for medications provided to a covered injured employee. New Hampshire Insurance Co did not pay, reduce, or deny the complete medical bill in 45 days. Due to New Hampshire Insurance Co's failure to take final action and timely issue an EOB, the provider then asked for reconsideration and requested an EOB as required.⁶ New Hampshire Insurance Co did not respond to the request for reconsideration. The provider then filed for medical fee dispute resolution (MFDR).

²28 Texas Administrative Code §133.240 (a)

³ 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.

⁴ 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.

⁵ 28 Texas Administrative Code §133.307 (d)(2)(F) The carrier's response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review.

⁶ 28 Texas Administrative Code §133.250

1. *Did New Hampshire Insurance Co timely present denial reasons to the provider before the filing of this fee dispute?*

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

Because no defenses were presented to the provider before the filing of this medical fee dispute, all the defenses raised by New Hampshire Insurance Co, including the extent of injury defense, are new defenses and will not be considered in this review. 28 TAC 133.307(d)(2)(F).

New Hampshire Insurance Co failed to present any defenses that conform with the requirements of 28 TAC §133.240 and 133.250 discussed above. Absent any evidence that New Hampshire Insurance Co or an agent acting on New Hampshire Insurance Co's behalf **timely** presented any defenses to the provider that conform with the requirements of Title 28, Part 2, Chapter 133, Subchapter C, the Division finds that the medications are 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 medications.⁷ The listing of drugs and the units billed are found on the medical bill.⁸

The calculation of the total allowable amount for the medications in dispute is as follows:

Drug	NDC	Generic(G) /Brand(B)	Price /Unit	Units Billed	AWP Formula	Billed Amt	Lesser of AWP and Billed
Cyclobenzaprine	65162054150	G	\$1.09	30	\$40.88	\$90.26	\$40.88
Meloxicam	29300012510	G	\$4.85	30	\$181.88	\$202.85	\$181.88
						Total	\$222.75

The total reimbursement is therefore \$222.75. This amount is recommended.

Decision

For the reasons above, the division finds that reimbursement is due. As a result, the amount ordered is \$222.75.

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 \$222.75, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

02/11/2019
Date

⁷ 28 Texas Administrative Code §134.503 (c)

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

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 a this decision is not timely made.

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

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 1-800-252-7031, Option 1.