



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

New Hampshire Insurance Company

MFDR Tracking Number

M4-19-1815-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

November 28, 2018

REQUESTOR'S POSITION SUMMARY

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

Amount in Dispute: \$555.68

RESPONDENT'S POSITION SUMMARY

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

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 27, 2018	Compound Medication	\$555.68	\$0.00

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 Codes §§134.530 and 134.540 set out the guidelines for preauthorization of pharmaceutical services.
3. The documentation submitted to the DWC did not include explanations of benefits.

Issues

1. Did the insurance carrier take final action on the bill for the service in question prior to the request for medical fee dispute resolution (MFDR)?
2. Is reimbursement due for the compound in dispute?

Findings

1. Memorial Compounding Pharmacy (Memorial) is seeking reimbursement for a compound dispensed on July 27, 2018. Memorial states that

The original bill was submitted to carrier on **08/07/2018 via certified mail** ... Memorial did not receive any correspondence as per rule so we submitted a Request for Reconsideration ... The request was submitted and received by the carrier on **10/20/2018 via certified mail** still with no response.

The insurance carrier is required to take final action by paying, reducing, or denying the service in question not later than 45 days after receiving the medical bill. This deadline is not extended by a request for additional information.¹

The greater weight of evidence presented to the DWC supports that a complete bill for the services in question was received by the insurance carrier or its agent. No evidence was provided to support that the insurance carrier took final action on the bill for the service in question.

2. Memorial asserts that preauthorization was not required for the compound in dispute. Applicable amended Rule at 28 TAC §134.530(b)(1) states, in pertinent part, that preauthorization is **only** required for any prescription drug created through compounding prescribed and dispensed on or after July 1, 2018.

According to the adoption preamble, new section (b)(1)(C) **DOES NOT APPLY** to prescriptions for compounded drugs written before July 1, 2018, and refills for those prescriptions. Therefore, for compounds dispensed on or after July 1, 2018, a copy of the physician’s initial prescription is necessary for the DWC to make an informed decision about whether preauthorization is required.

On January 15, 2019, the DWC submitted a request for additional information to Memorial. The request sought “the initial and any subsequent prescription(s) that pertain to the dispensed medications” in dispute. Memorial was given a minimum of 14 days to provide the requested information.

Memorial failed to provide prescription evidence sufficient to support its assertion that preauthorization was not required. Memorial has therefore failed to meet its burden to prove that reimbursement is due.

Conclusion

For the reasons stated above, the DWC finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031, the DWC hereby determines the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

Authorized Signature

	Laurie Garnes	October 3, 2019
Signature	Medical Fee Dispute Resolution Officer	Date

¹ 28 Texas Administrative Code §133.240(a)

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.