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
STATE OFFICE OF RISK MANAGEMENT

MFDR Tracking Number
M4-19-1884-01

Carrier's Austin Representative
Box Number 45

MFDR Date Received
November 30, 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: $555.68

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "…the Office found there were no certified preauthorization's obtained for the compound medications pursuant to rule 134.530(b) and (d)…"

Response Submitted by: SORM

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
March 29, 2018	Compound Medication	$555.68	$555.68

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code (TLC) §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

Background

1. 28 Texas Administrative Code (TAC) §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 TAC §134.502 sets out the procedures for pharmaceutical benefits.
3. 28 TAC §134.503 sets out the fee guidelines for pharmaceutical services.
4. 28 TAC §§134.530 and 134.540 sets out the closed formulary requirements.
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 March 29, 2018. The insurance carrier denied the disputed compound based on preauthorization. Preauthorization is only required for:

    - drugs identified with a status of "N" in the current edition of the ODG Appendix A[1];
    - any compound that contains a drug identified with a status of "N" in the current edition of the ODG Appendix A; and
    - any investigational or experimental drug.[2]

    SORM, on behalf of the insurance carrier, argued that "…the Office found there were no certified preauthorization's obtained for the compound medications pursuant to rule 134.530(b) and (d)…"

    The determination of a service's investigational or experimental nature is determined on a case by case basis through utilization review.[3] Utilization review, includes a prospective, concurrent, or **retrospective review to determine the experimental or investigational nature** of health care services.[4]

    The preamble relating to the adoption of relevant pharmacy rules clearly states that the DWC intended for the **ingredients** of the compound to drive preauthorization requirements, not compounds as a class.[5] The compound in question does not contain an ingredient identified with a status of "N" in the current edition of the ODG, Appendix A.

    SORM provided **no evidence** that the insurance carrier engaged in a prospective or retrospective utilization review to establish that the specific compound considered in this review is investigational or experimental.

    Because the insurance carrier failed to perform utilization review on the disputed compound, the requirement for preauthorization based on a premise that the compound is investigational or experimental **is not triggered** in this case. The insurance carrier's preauthorization denial is therefore 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.[6] Each ingredient is listed below with its reimbursement amount.[7] The calculation of the total allowable amount is as follows:

---

[1] *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary*
[2] 28 TAC §§134.530 (b)(1) 134.540 (b)
[3] TAC §19.2005 (b)
[4] TAC §4201.002 (13)
[5] The Division initially considered requiring preauthorization for all compound drugs. However, with stakeholder feedback and, in the interest of curbing the expense of numerous preauthorization requests, the Division reconsidered and adopts a more measured approach as specified in the proposal, which is requiring preauthorization only for those compounds that contain an "N" drug. The Division notes that an insurance carrier can conduct retrospective utilization review for all compounds not containing an "N" drug so that insurance carriers have the ability to only pay for medically necessary care. http://texreg.sos.state.tx.us/public/regviewer$ext.RegPage?sl=T&app=2&p_dir=F&p_rloc=231643&p_tloc=98652&p_ploc=78924&pg=6&p_reg=201006879&ti=&pt=&ch=&rl=&z_chk=53523
[6] 28 TAC §134.502(d)(2)
[7] 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 Amount	Lesser of AWP and Billed
Baclofen	38779038809	G	$35.63	5.4	$192.40	$190.78	$190.78
Amantadine HCL	38779041105	G	$24.23	3.0	$72.69	$72.69	$72.69
Gabapentin USP	38779246109	G	$59.85	3.6	$215.46	$204.66	$204.66
Bupivacaine HCL	38779052405	G	$45.60	1.2	$54.72	$54.72	$54.72
Amitriptyline HCL	38779018904	G	$18.24	1.8	$32.83	$32.83	$32.83
					Total	$555.68	$555.68

The total reimbursement is therefore $555.68. 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 $555.68.

ORDER

Based on the submitted information, pursuant to TLC 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 $555.68, plus applicable accrued interest per 28 TAC §134.130, due within 30 days of receipt of this order.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	February 13, 2020 Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 TAC §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 TAC §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.