



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

Trumbull Insurance Company

MFDR Tracking Number

M4-19-1895-01

Carrier's Austin Representative

Box Number 47

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: \$177.26

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The records submitted for review would not support the requested compounded medications as reasonable or necessary."

Response Submitted by: The Hartford

SUMMARY OF FINDINGS

| Dates of Service | Disputed Services | Amount In Dispute | Amount Due |
|------------------|----------------------------|-------------------|------------|
| May 25, 2018 | Gabapentin 300 mg Capsules | \$177.26 | \$153.70 |

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

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
- 28 Texas Administrative Code §134.530 sets out the closed formulary requirements for claims not subject to certified networks.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 75 – Prior authorization required
 - P2 – Not a work related injury/illness and thus not the liability of the workers' compensation carrier.

Issues

1. Did the insurance carrier raise a new defense in its response?
2. Is this dispute subject to dismissal based on compensability?
3. Is the insurance carrier's reason for denial of payment based on preauthorization supported?
4. Is Memorial Compounding Pharmacy (Memorial) entitled to reimbursement for the drug in question?

Findings

1. Memorial is seeking reimbursement for Gabapentin 300 mg capsules dispensed on May 25, 2018. In its position statement, The Hartford, on behalf of the insurance carrier, argued that the drug in question is not medically necessary.

The response from the insurance carrier is required to address only the denial reasons presented to the requestor the request for medical fee dispute resolution (MFDR) was filed with the division. Any new denial reasons or defenses raised shall not be considered in this review.¹

The submitted documentation does not support that a denial based on medical necessity was provided to Memorial before this request for MFDR was filed. Therefore, the division will not consider this argument in the current dispute review.

2. The insurance carrier denied the drug, in part, based on the compensability of the injury. A dispute regarding compensability must be resolved prior to a request for medical fee dispute.²

The respondent is required to attach a copy of any related Plain Language Notice (PLN) if the medical fee dispute involves compensability or liability. Review of the submitted documentation finds that The Hartford failed to attach a copy of a related PLN on behalf of the insurance carrier to support a denial based on compensability of the injury.

The dispute in question is not subject to dismissal as this denial reason was not sufficiently supported.

3. The insurance carrier also denied the disputed drug based on preauthorization. Preauthorization is only required for:
 - drugs identified with a status of "N" in the current edition of the ODG Appendix A³;
 - 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.⁴

The division finds that Gabapentin is not identified with a status of "N" in the applicable edition of the ODG, *Appendix A*. Therefore, this drug does not require preauthorization per 28 TAC §134.530(b)(2)(A).

The submitted documentation does not support that Gabapentin 300 mg capsules constitute a compound drug. Therefore, this drug does not require preauthorization per 28 TAC §134.530(b)(2)(B).

The submitted documentation does not support that Gabapentin 300 mg capsules are experimental or investigational. Therefore, this drug does not require preauthorization per 28 TAC §134.530(b)(2)(C).

The DWC concludes that the insurance carrier's denial of payment of Gabapentin 300 mg capsules is not supported.

4. Because the insurance carrier failed to support its denial of payment, Memorial is entitled to reimbursement for the drug in question.

The reimbursement considered in this dispute is calculated as follows⁵:

¹ 28 Texas Administrative Code §133.307(d)(2)(F)

² 28 Texas Administrative Codes §§133.305(b) and 133.307(c)(1)(B)(i)

³ *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary*

⁴ 28 Texas Administrative Code §134.540(b)

⁵ 28 Texas Administrative Code §134.503(c)

- Gabapentin 300 mg capsules: $(1.3307 \times 90 \times 1.25) + \$4.00 = \$153.70$

The total reimbursement is therefore \$153.70. This amount is recommended.

Conclusion

For the reasons stated above, the division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$153.70.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$153.70, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

| | | |
|-----------|--|-------------------------|
| _____ | <u>Laurie Garnes</u> | <u>February 6, 2019</u> |
| 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 division within **twenty** days of your receipt of this decision. 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.

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.