



# 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**

Liberty Mutual Insurance Corporation

**MFDR Tracking Number**

M4-19-2168-01

**Carrier's Austin Representative**

Box Number 1

**MFDR Date Received**

December 17, 2018

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "These medication due not require preauthorization therefore do not need a retrospective review."

**Amount in Dispute:** \$315.51

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "It was denied as not medically necessary following completion of a retrospective medical necessity review."

**Response Submitted by:** Liberty Mutual Insurance

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
June 27, 2018	Omeprazole DR 20 mg Capsules	\$315.51	\$315.51

#### 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.

#### **Background**

1. 28 Texas Administrative Code §133.240 sets out the procedures for payment or denial of a medical bill.
2. 28 Texas Administrative Code §133.305 sets out the procedures for resolving medical disputes.
3. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
4. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
5. Texas Insurance Code, Chapter 19 sets out the requirements for utilization review.
6. The insurance carrier reduced payment for the disputed drug based on medical necessity.

## Issues

1. Is this dispute subject to dismissal based on medical necessity?
2. Is Memorial Compounding Pharmacy (Memorial) entitled to reimbursement for the drugs in question?

## Findings

1. Memorial is seeking reimbursement for Omeprazole DR 20 mg capsules dispensed on June 27, 2018. Per explanation of benefits dated July 17, 2018, the insurance carrier denied the disputed drug based on medical necessity.

If a dispute regarding medical necessity exists, the medical necessity dispute must be resolved prior to a request for medical fee dispute resolution.<sup>1</sup> A medical necessity denial of a medical bill must be based on an adverse determination by a utilization review agent.<sup>2</sup>

The submitted documentation includes a report dated July 22, 2017, as support for utilization review of the disputed drug. This report does not support that the insurance carrier performed a utilization review of the compound in question for the following reasons<sup>3</sup>:

- The document does not include a description for filing a complaint with the Texas Department of Insurance,
- The document does not include information describing the processes for filing an appeal,
- The document itself includes the statement, “this opinion does not constitute a recommendation for specific claims or administrative functions to be made or enforced, nor does nit constitute an adverse or affirming decision as it relates to acceptance or denial of retrospective, concurrent or prospective medical treatment ... Accordingly, this opinion does not constitute a determination for the purposes of utilization review. Any approvals or denials regarding the appropriateness of treatment or medical necessity must be processed formally through utilization review as outlined in Title 28 TAC Chapter 19, Subchapter U.

For these reasons, the insurance carrier’s denial is not sufficiently supported. This dispute is not subject to dismissal based on medical necessity.

2. Because the insurance carrier failed to support its denial, Memorial is entitled to reimbursement for the drug in question. The calculation of the total allowable amount is as follows:
  - Omeprazole DR 20 mg capsules:  $(4.3002 \times 60 \times 1.25) + \$4.00 = \$326.52$

The total allowable amount is \$326.52. Memorial is seeking \$315.51. 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 \$315.51.

### **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 \$315.51, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

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<sup>1</sup> 28 Texas Administrative Code §133.305(b)

<sup>2</sup> 28 Texas Administrative Code §133.240(q), 28 Texas Administrative Codes §§19.2009 and 19.2010

<sup>3</sup> 28 Texas Administrative Code §19.2009(b)

**Authorized Signature**

\_\_\_\_\_  
Signature

Laurie Garnes  
\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

July 16, 2019  
\_\_\_\_\_  
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.**