



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

XL Insurance America, Inc.

MFDR Tracking Number

M4-19-2350-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

December 21, 2018

Response Submitted By:

Gallagher Bassett

REQUESTOR'S POSITION SUMMARY

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

RESPONDENT

The respondent's positions are not to be considered. See Rule 28 Texas Administrative Code §133.307(d)(2)(F). No denial reasons were presented to Memorial Compounding Pharmacy before the filing of this medical fee dispute. American Casualty Co of Reading PA failed to issue an explanation of benefits within the timeframe specified in Texas Labor Code 408.027(b) and corresponding 28 Texas Administrative Code §133.240.

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount in Dispute, Amount Due. Rows include August 14, 2018 for Compound Medication and Lyrica 150 mg Capsules, and a Total row.

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 for non-network care. Non-network health care--Health care not delivered or arranged by a certified workers' compensation health care network as defined in Insurance Code Chapter 1305 and related rules. "Non-network health care" includes health care delivered pursuant to Labor Code §408.0281 and §408.0284.

Background

- 1. 28 Texas Administrative Code §133.240(a) requires the insurance carrier to take final action on a medical bill within 45 days from the date of receipt.

2. 28 Texas Administrative Code §133.307(f)(2) authorizes the division to raise issues in the MFDR process as appropriate.
3. 28 Texas Administrative Codes §134.530(b)(1)(B) and (C) set out preauthorization requirements for compounds not subject to certified health care networks.
4. 28 Texas Administrative Code §§134.540(b)(2) and (3) set out preauthorization requirements for compounds subject to certified health care networks.

Issue

1. Did XL Insurance America, Inc. timely present denial reasons to the provider before the filing of this fee dispute?
2. Is reimbursement due for the compound in dispute?
3. Is reimbursement due for Lyrica 150 mg capsules?

Findings

The provider, Memorial Compounding Pharmacy (Memorial), requested payment from XL Insurance America, Inc. for a compound medication and Lyrica 150 mg capsules provided to a covered injured employee. XL Insurance America, Inc. did not pay, reduce, or deny the complete medical bill in 45 days. Due to the insurance carrier's failure to take final action and timely issue an EOB, the provider then asked for reconsideration and requested an EOB as required.¹ XL Insurance America, Inc. did not respond to the request for reconsideration. The provider then filed for medical fee dispute resolution (MFDR).

1. No evidence was presented by XL Insurance America, Inc. or its agent to support that it responded to the complete medical bill within 45 days; nor did XL Insurance America, Inc. or its agent present any evidence to support that it responded to the request for reconsideration and request for an EOB. XL Insurance America, Inc. therefore failed to present any denial reasons or defenses to the provider before the filing of this medical fee dispute.

XL Insurance America, Inc. failed to present any defenses that conform with the requirements of 28 TAC §133.240 and 133.250 discussed above.

2. The division may raise issues pursuant to 28 TAC §133.307 (f)(2). Such an action is appropriate in this case because of a rule change that specifically pertains to compounded medications dispensed on or after July 1, 2018.

The compound in dispute was dispensed on August 14, 2018. Applicable amended Rule at 28 TAC 134.530 states, in pertinent part, that preauthorization is required for any prescription drug created through compounding prescribed and dispensed on or after July 1, 2018.

The new preauthorization requirement **DOES NOT APPLY** to prescriptions for compounded drugs written before July 1, 2018, and refills for those prescriptions. A copy of the physician's initial prescription is therefore necessary for the division to make an informed decision about whether any compound should be paid. The division requested the initial and any subsequent prescription(s) that pertain to the service in dispute. Memorial was given a minimum of 14 days to provide the requested information. Memorial failed to provide the prescription.

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

3. Absent any evidence that XL Insurance America, Inc. or an agent acting on the insurance carrier's behalf timely presented any defenses to the provider that conform with the requirements of Title 28, Part 2, Chapter 133, Subchapter C, the DWC finds that Lyrica 150 mg capsules are eligible for reimbursement.

The reimbursement considered in this dispute is calculated as follows²:

¹ 28 Texas Administrative Code §133.250

² 28 Texas Administrative Code §134.503(c)

- Lyrica 150 mg capsules: $(8.91789 \times 90 \times 1.25) + \$4.00 = \$878.85$

The total reimbursement is therefore \$878.85. Memorial is seeking reimbursement of \$860.11. This amount is recommended.

Conclusion

For the reasons above, the division finds that reimbursement is due. As a result, the amount ordered is \$860.11.

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 \$860.11, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

_____	Laurie Garnes	_____
Signature	Medical Fee Dispute Resolution Officer	Date

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 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.