



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

City of Houston

MFDR Tracking Number

M4-19-2643-01

Carrier's Austin Representative

Box Number 29

MFDR Date Received

January 14, 2019

REQUESTOR'S POSITION SUMMARY

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

Amount in Dispute: \$333.04

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "We are in receipt of the Medical Dispute ... from Memorial Compounding RX for dates of service 07/27/18 which represent a compound drug. Effective July 1, 2018, the Division of Workers Compensation adopted amended Rules 134.500, 134.530 and 134.540 regarding preauthorization for compounded drugs with an effective date of July 1, 2018. Based on this information, no additional allowance is warranted."

Response Submitted by: Injury Management Organization

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 27, 2018	Gabapentin 300 mg Capsules	\$177.26	\$153.70
July 27, 2018	Cyclobenzaprine 10 mg Tablets	\$155.78	\$126.85
Total		\$333.04	\$280.55

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 §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
3. The insurance carrier reduced payment based on medical necessity.

Issues

1. Did the insurance carrier raise a new defense in its response?
2. Is this dispute subject to dismissal based on medical necessity?
3. Is Memorial Compounding Pharmacy (Memorial) entitled to reimbursement for the drugs in question?

Findings

1. Memorial is seeking reimbursement for Gabapentin 300 mg capsules and Cyclobenzaprine 10 mg tablets dispensed on July 27, 2018. In its position statement Injury Management Organization argued on behalf of City of Houston that the disputed drugs were denied based on lack of preauthorization.

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 for review.¹

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

2. Per explanations of benefits dated August 28, 2018, the insurance carrier denied the disputed drugs based on medical necessity.

Medical necessity disputes must be resolved prior to submission of a medical fee dispute.² The insurance carrier is required to perform a utilization review before a denial based on medical necessity, including giving the health care provider – in this case, Memorial – an opportunity to discuss the treatment in question.³

The respondent is required to submit documentation to support a denial based on lack of medical necessity.⁴ City of Houston provided no evidence to support that it performed a utilization review on the drugs in question to determine medical necessity.⁵ This denial reason is not supported.

3. Because the insurance carrier failed to sufficiently support its denial of reimbursement, Memorial is entitled to reimbursement.

The reimbursement considered in this dispute is calculated as follows⁶:

- Gabapentin 300 mg capsules: $(1.07 \times 90 \times 1.25) + \$4.00 = \$153.70$
- Cyclobenzaprine 10 mg Tablets: $(1.092 \times 90 \times 1.25) + \$4.00 = \$126.85$

The total reimbursement is therefore \$280.55. 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 \$280.55.

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 \$280.55, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

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

² 28 Texas Administrative Code §133.305(b)

³ 28 Texas Administrative Code §133.240(q)

⁴ 28 Texas Administrative Code §133.307(d)(2)(I)

⁵ 28 Texas Administrative Codes §§134.240 and 19.2009

⁶ 28 Texas Administrative Code §134.503(c)

Authorized Signature

Signature

Laurie Garnes

Medical Fee Dispute Resolution Officer

May 2, 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.