



**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**

Indemnity Insurance Co of North America

**MFDR Tracking Number**

M4-19-2646-01

**Carrier's Austin Representative**

Box Number 15

**MFDR Date Received**

January 14, 2019

**Response Submitted By:**

Flahive, Ogden & Latson

**REQUESTOR'S POSITION SUMMARY**

"Memorial Compounding Pharmacy is requesting Reconsideration based on the amendment of Rule 134.500 that indicates that all prescription written/dispensed or refilled prior to the effective date 07/01/2018 will not be impacted by the rule change."

**RESPONDENT'S POSITION SUMMARY**

"This compound prescription, prescribed and filled after July 1, 2018 (DOS July 27, 2018), required preauthorization. 28 Tex. Admin. Code §134.540(b)(3)."

**SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 27, 2018	Compound Medication	\$726.62	\$0.00

**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 Codes §§134.530(b)(1)(B) and (C) set out preauthorization requirements for compounds not subject to certified health care networks.
2. 28 Texas Administrative Code §§134.540(b)(2) and (3) set out preauthorization requirements for compounds subject to certified health care networks.
3. The insurance carrier denied the compound in question based on preauthorization.

**Issue**

Is reimbursement due for the service in dispute?

**Findings**

Memorial asserts the service in dispute is not impacted by the amendment of Rule 134.500. This compound was dispensed on July 27, 2018. Applicable amended Rule at 28 TAC 134.530[non-network] or 28 TAC 134.540 [network] (b)(1)(C) states, in pertinent part, that preauthorization is **only** required for any prescription drug created through compounding prescribed and dispensed on or after July 1, 2018.

According to the adoption preamble, new section (b)(1)(C) **DOES NOT APPLY** to prescriptions for compounded drugs written before July 1, 2018, and refills for those prescriptions. Therefore, for compounds dispensed on or after July 1, 2018, a copy of the physician’s initial prescription is necessary for the division to make an informed decision about whether preauthorization is required.

On February 11, 2019, the division submitted a request for additional information to Memorial. The request sought “the initial and any subsequent prescription(s) that pertain to the dispensed medications” in dispute. Memorial was given a minimum of 14 days to provide the requested information. Memorial failed to provide the prescription. Therefore, the decision will be based on the information available.

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

**Conclusion**

For the reasons stated above, the division finds that the requestor has not established that reimbursement is due. As a result, the amount ordered is \$0.00.

**ORDER**

Based on the submitted information, pursuant to Texas Labor Code Section 413.031, the division hereby determines the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

**Authorized Signature**

		March 6, 2019
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](mailto: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.