



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)
7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645
(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Memorial Compounding Pharmacy

Respondent Name

Liberty Mutual Insurance Company

MFDR Tracking Number

M4-19-2657-01

Carrier's Austin Representative

Box Number 1

MFDR Date Received

January 14, 2019

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "This compound has been proven to be effective and it not the first line of therapy or care based on patient's date of injury."

Amount in Dispute: \$522.85

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The 7/27/18 denied as not medically necessary following completion of a retrospective medical necessity review."

Response Submitted by: Liberty Mutual Insurance

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: July 27, 2018, Compound Medication, \$522.85, \$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 Code §133.240 sets out requirements for payment or denial of a medical bill.
2. 28 Texas Administrative Codes §§134.530(b)(1)(B) and (C) set out preauthorization requirements for compounds not subject to certified health care networks.
3. 28 Texas Administrative Code §§134.540(b)(2) and (3) set out preauthorization requirements for compounds subject to certified health care networks.
4. The insurance carrier denied the compound in question based on preauthorization.

## Issue

1. Is this dispute subject to dismissal due to medical necessity?
2. Is reimbursement due for the service in dispute?

## Findings

1. Memorial is seeking reimbursement for a compound dispensed on July 27, 2018, with the following ingredients:

Ingredients	Units
Baclofen	5.4 gm
Amantadine HCl	3.0 gm
Gabapentin USP	3.6 gm
Bupivacaine HCl	1.2 gm

Per explanation of benefits dated September 17, 2018, the insurance carrier denied the disputed compound based on medical necessity.

Medical necessity disputes must be resolved prior to submission of a medical fee dispute.<sup>1</sup> 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.<sup>2</sup>

The respondent is required to submit documentation to support a denial based on lack of medical necessity.<sup>3</sup> The submitted documentation includes a report dated November 21, 2017, as support for utilization review of the disputed compound. This document is not a review of the compound considered in this dispute. The insurance carrier provided no evidence to support that it performed a utilization review of the compound in question to determine medical necessity.<sup>4</sup>

2. Memorial asserts that preauthorization was not required for the compound in dispute. This compound was dispensed on July 27, 2018. Applicable amended Rule at 28 TAC 134.530(b)(1)(C) states, in pertinent part, that preauthorization is 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 DWC to make an informed decision about whether preauthorization is required.

On July 25, 2019, the DWC 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 deadline of August 1, 2019, 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 DWC finds that the requestor has not established that reimbursement is due. As a result, the amount ordered is \$0.00.

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

<sup>2</sup> 28 Texas Administrative Code §133.240(q)

<sup>3</sup> 28 Texas Administrative Code §133.307(d)(2)(I)

<sup>4</sup> 28 Texas Administrative Codes §§134.240 and 19.2009

**ORDER**

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

**Authorized Signature**

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
August 14, 2019  
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.