



**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**

Zurich American Insurance Co

**MFDR Tracking Number**

M4-19-2778-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

January 22, 2019

**Response Submitted By:**

Flahive Ogden & Latson

**REQUESTOR'S POSITION SUMMARY**

"The above claimant received Medication as prescribed by referral provider. Bill for date of service 09/20/2018 still has not been processed by carrier. All bills are required to be processed within 45 day of receipt s by the carrier per Texas Labor Code 408.027(b)."

**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. Zurich American Insurance Co 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**

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
September 20, 2018	Compound Medication	\$702.68	\$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 §133.307 (f)(2) authorizes the division to raise issues in the MFDR process as appropriate.
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.

**Issue**

Is reimbursement due for the service in dispute?

**Findings**

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 compounds in dispute was dispensed on September 20, 2018. Applicable amended Rule at 28 TAC 134.530 [non-network] or 28 TAC 134.540 [network] state, 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 compounds in dispute. 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, and 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**

		4/2/2019
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.