



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

New Hampshire Insurance Company

MFDR Tracking Number

M4-19-2907-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

January 28, 2019

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "A call was placed to carrier to confirm patient demographics as well as compensability. We were not notified of any disputes or PLN11 filed."

Amount in Dispute: \$438.23

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "PEER REVIEW STATES NO FURTHER TREATMENT WOULD BE REASONABLE/NECESSARY"

Response Submitted by: Gallagher Bassett

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 14, 2018	Zolpidem Tartrate 10 mg Tablets	\$196.25	\$177.44
August 14, 2018	Tramadol-Acetaminophen 37.5 Tablets	\$118.96	\$80.83
August 14, 2018	Cyclobenzaprine 10 mg Tablets	\$123.02	\$85.90
Total		\$438.23	\$344.17

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

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
- 28 Texas Administrative Code §134.530 sets out the closed formulary requirements for claims not subject to certified networks.

4. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
Explanations of Benefits Dated August 29, 2018:
 - 219 – Based on extent of injury.Explanations of Benefits Dated January 7, 2019:
 - 197 – Precertification/authorization/notification/pre-treatment absent

Issues

1. Did the insurance carrier raise a new defense in its response?
2. Did the insurance carrier maintain its denial based on extent of injury?
3. Is the insurance carrier's denial of payment based on preauthorization supported?
4. Is Memorial Compounding Pharmacy (Memorial) entitled to reimbursement for the drug in question?

Findings

1. Memorial is seeking reimbursement for drugs dispensed on August 14, 2018. In its position statement, Gallagher Bassett, on behalf of the insurance carrier, argued that the drug in question was denied based on medical necessity.

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 in this review.¹

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

The dispute in question is not subject to dismissal as this denial reason was not sufficiently supported.

2. Per explanations of benefits dated August 29, 2018, the insurance carrier denied the disputed drugs based on the extent of the compensable injury. Review of the submitted documentation indicates that the insurance carrier did not maintain this denial on subsequent explanations of benefits or in its position statement. Therefore, the division will not consider this denial reason.
3. The insurance carrier also denied the disputed drug based on preauthorization. Preauthorization is only required for:
 - drugs identified with a status of "N" in the current edition of the ODG Appendix A²;
 - any compound that contains a drug identified with a status of "N" in the current edition of the ODG Appendix A; and
 - any investigational or experimental drug.³

The division finds that the drugs in question are not identified with a status of "N" in the applicable edition of the ODG, *Appendix A*. Therefore, this drug does not require preauthorization per 28 TAC §134.530(b)(2)(A).

The submitted documentation does not support that the drugs in question constitute a compound drug. Therefore, this drug does not require preauthorization per 28 TAC §134.530(b)(2)(B).

The submitted documentation does not support that the disputed drugs are experimental or investigational. Therefore, this drug does not require preauthorization per 28 TAC §134.530(b)(2)(C).

The division concludes that the insurance carrier's denial of payment of the disputed drugs based on preauthorization is not supported.

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

² *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary*

³ 28 Texas Administrative Code §134.540(b)

4. Because the insurance carrier failed to support its denial of payment, Memorial is entitled to reimbursement for the drug in question.

The reimbursement considered in this dispute is calculated as follows⁴:

- Zolpidem Tartrate 10 mg Tablets: $(4.6251 \times 30 \times 1.25) + \$4.00 = \$177.44$
- Tramadol-Acetaminophen 37.5 Tablets: $(1.02436 \times 60 \times 1.25) + \$4.00 = \$80.83$
- Cyclobenzaprine 10 mg Tablets: $(1.092 \times 60 \times 1.25) + \$4.00 = \$85.90$

The total reimbursement is therefore \$344.17. 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 \$344.17.

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 \$344.17, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

_____	<u>Laurie Garnes</u>	<u>March 6, 2019</u>
Signature	Medical Fee Dispute Resolution Officer	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.

⁴ 28 Texas Administrative Code §134.503(c)