



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

XL Insurance America, Inc.

MFDR Tracking Number

M4-19-4095-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

May 10, 2019

REQUESTOR'S POSITION SUMMARY

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

Amount in Dispute: \$186.51

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: Submitted documentation does not include a position statement from the respondent. Accordingly, this decision is based on the information available at the time of adjudication.

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: February 7, 2019, Omeprazole DR 20 mg Capsules, \$186.51, \$165.26

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 the procedures for payment and denial of medical bills.
2. 28 Texas Administrative Code §133.305 sets out the procedures for resolving medical disputes.
3. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
4. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
5. 28 Texas Administrative Codes §§134.530 and 134.540 set out the guidelines for preauthorization of pharmaceutical services.
6. The insurance carrier denied payment for the disputed drug based on medical necessity and preauthorization.

Issues

1. Did XL Insurance America, Inc. respond to the medical fee dispute?
2. Is this dispute subject to dismissal based on medical necessity?
3. Is the insurance carrier's reason for denial of payment based on preauthorization supported?
4. Is Memorial Compounding Pharmacy (Memorial) entitled to reimbursement drug in question?

Findings

1. The Austin carrier representative for XL Insurance America, Inc. is Flahive Ogden & Latson. Flahive Ogden & Latson acknowledged receipt of the copy of this medical fee dispute on May 17, 2019. Rule §133.307(d)(1) states that if the DWC does not receive the response within 14 calendar days of the dispute notification, then the DWC may base its decision on the available information.

As of today, no response has been received from the carrier or its representative. We therefore base this decision on the information available as authorized under §133.307(d)(1).

2. Memorial is seeking reimbursement for Omeprazole DR 20 mg capsules. Per explanation of benefits dated February 22, 2019, the insurance carrier denied the disputed compound, in part, based on medical necessity.

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

The respondent is required to submit documentation to support a denial based on lack of medical necessity.³ XL Insurance America, Inc. provided no evidence to support that it performed a utilization review on the compound in question to determine medical necessity.⁴

This denial reason is not supported. This dispute is not subject to dismissal based on medical necessity.

3. Submitted documentation supports that 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 A⁵;
- any compound prescribed before July 1, 2018 that contains a drug identified with a status of "N" in the current edition of the ODG Appendix A;
- any prescription drug created through compounding prescribed and dispensed on or after July 1, 2018; and
- any investigational or experimental drug.⁶

The DWC finds that the drug in question is not identified with a status of "N" in the applicable edition of the ODG, *Appendix A*. Therefore, this drug does not require preauthorization.⁷

The submitted documentation does not support that the disputed drug is experimental or investigational. Therefore, this drug does not require preauthorization.⁸

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

4. Because the insurance carrier failed to support its denial of payment for the disputed drugs, Memorial is entitled to reimbursement.

¹ 28 Texas Administrative Code §133.305(b)

² 28 Texas Administrative Code §133.240(q)

³ 28 Texas Administrative Code §133.307(d)(2)(l)

⁴ 28 Texas Administrative Codes §§134.240 and 19.2009

⁵ *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary*

⁶ 28 TAC §134.530(b)(1) and §134.540(b)

⁷ 28 TAC §134.530(b)(1)(A) and §134.540(b)(1)

⁸ 28 TAC §134.530(b)(1)(D) and §134.540(b)(4)

The reimbursement considered in this dispute is calculated as follows⁹:

- Omeprazole DR 20 mg capsules: $(4.3002 \times 30 \times 1.25) + \$4.00 = \$165.26$

The total reimbursement is therefore \$165.26. This amount is recommended.

Conclusion

For the reasons stated above, the DWC finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$165.26.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the DWC has determined the requestor is entitled to additional reimbursement for the disputed services. The DWC hereby ORDERS the respondent to remit to the requestor \$165.26, 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>August 14, 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.

⁹ 28 Texas Administrative Code §134.503(c)