



# 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 COMPANY

**MFDR Tracking Number**

M4-19-4291-01

**Carrier's Austin Representative**

Box Number 15

**MFDR Date Received**

May 30, 2019

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "The original bill was submitted to carrier on 03/04/2019... Memorial did not receive any correspondence as per Rule 133.250 (a)... The reconsideration was submitted and received by the carrier on 04/19/2019 and then denied by the carrier... The carrier denied the reconsideration based on lack of preauthorization. These medications do not require preauthorization therefore do not need a retrospective review."

**Amount in Dispute:** \$319.07

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** No response was received.

#### SUMMARY OF DISPUTED SERVICE(S)

Date(s) of Service	Disputed Service(s)	Amount In Dispute	Amount Due
February 20, 2019	Omeprazole DR 20 mg capsule GLN Tramadol HCL 50 mg tablet AMN	\$319.07	\$263.08

#### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code (TLC) §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

#### **Background**

1. 28 Texas Administrative Code (TAC) §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 TAC §134.503 sets out the fee guidelines for pharmaceutical services.
3. The documentation submitted to the DWC did not include explanations of benefits.

#### **Issues**

1. Did the insurance carrier respond to the medical fee dispute?
2. Is the insurance carrier's denial of payment based on preauthorization supported?
3. Is Memorial Compounding Pharmacy (Memorial) entitled to reimbursement?

## Findings

1. The Austin carrier representative for Indemnity Insurance Company of North America is Downs Stanford. Downs Stanford acknowledged receipt of the copy of this medical fee dispute on June 7, 2019. Rule §133.307(d)(1) states that if the division does not receive the response within 14 calendar days of the dispute notification, then the division 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 of \$319.07 for prescribed medications Omeprazole DR 20 mg capsule GLN and Tramadol HCL 50 mg tablet AMN dispensed on February 20, 2019. The insurance carrier denied the disputed drug with claim adjustment reason code "197 – Precertification/ authorization/notification absent" and "IX03 – This transaction was denied because it failed one or more Utilization Management edits."

28 TAC §134.530(b)(1)(A-D) states that preauthorization is only required for:

- (A) drugs identified with a status of "N" in the current edition of the *ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary, and any updates;*
- (B) any prescription drug created through compounding prescribed before July 1, 2018 that contains a drug identified with a status of "N" in the current edition of the *ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary, and any updates;*
- (C) Any prescription drug created through compounding prescribed and dispensed on or after July 1, 2018; and
- (D) Any investigational or experimental drug for which there is early, developing scientific or clinical evidence demonstrating the potential efficacy of the treatment, but which is not yet broadly accepted as the prevailing standard of care as defined in Labor Code §413.014(a)

The DWC finds that the drugs in question do not include a drug identified with a status of "N" in the February 2019 edition of the ODG, Appendix A. The insurance carrier failed to articulate any arguments to support its denial for preauthorization. Therefore, the DWC concludes that the drugs in question did not require preauthorization and insurance carrier's denial of payment for this reason is not supported. Therefore, the disputed drugs will be reviewed for reimbursement, pursuant to 28 TAC §134.503.

3. 28 TAC 134.503 (c)(1)(A) states, "The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of: (1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed: (A) Generic drugs:  $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \$4.00$  dispensing fee per prescription = reimbursement amount."

The reimbursement considered in this dispute is calculated as follows:

Generic drugs:  $(\text{AWP per unit}) \times (\text{number of units}) \times 1.25 + \$4.00$  dispensing fee per prescription = reimbursement amount.

- Omeprazole DR 20 mg capsule GLN:  $4.30020 \times 30 = \$129.01 \times 1.25 = \$161.25 + \$4.00 = \$165.25$
- Tramadol HCL 50 mg tablet AMN:  $0.83400 \times 90 = \$75.06 \times 1.25 = \$93.83 + \$4.00 = \$97.83$

The total reimbursement is therefore \$263.08. This amount is recommended.

**Conclusion**

The outcome of this medical fee dispute relied upon the evidence presented by the requestor and the respondent at the time of adjudication. Though all the evidence may not have been discussed, it was considered. 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 \$263.08.

**ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of TLC Sections 413.031 and 413.019 (if applicable), the DWC has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The DWC hereby ORDERS the respondent to remit to the requestor the amount of \$263.08 plus applicable accrued interest per 28 TAC §134.130, due within 30 days of receipt of this Order.

**Authorized Signature**

		October 3, 2019
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 28 TAC §133.307, 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 DWC within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the DWC 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 with the DWC. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 TAC §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**