



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 COMPANY

MFDR Tracking Number

M4-19-4526-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

June 17, 2019

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The original bill was submitted to carrier on 04/22/2019... Memorial did not receive any correspondence as per Rule 133.250 (a)... The reconsideration was submitted and received by the carrier on 05/29/2019 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: \$276.25

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The Carrier has not been able to locate its Reconsideration response to this bill. The Carrier will supplement this Response upon completion of its investigation."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF DISPUTED SERVICE(S)

Date(s) of Service	Disputed Service(s)	Amount In Dispute	Amount Due
April 10, 2019	Cyclobenzaprine 10 mg Tablet CIP Gabapentin 400 mg Capsule TIM	\$276.25	\$85.86

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 submit a supplemental position summary to support the denial of payment?
2. What is the dispute process for resolving compensability, extent of injury or liability disputes?
3. Is the insurance carrier's denial of payment based on preauthorization supported?
4. Is Memorial Compounding Pharmacy (Memorial) entitled to reimbursement?

Findings

1. Memorial seeks reimbursement for drugs dispensed on April 10, 2019. The respondent states in pertinent part, "The Carrier has not been able to locate its Reconsideration response to this bill. The Carrier will supplement this Response upon completion of its investigation." As of today, no supplemental response has been received from the carrier or its representative. We therefore base this decision on the information available as authorized under 28 TAC §133.307.
2. The requestor seeks reimbursement in the amount of \$153.26 for prescribed medication, Gabapentin 400 mg Capsule TIM rendered on April 10, 2019. The insurance carrier denied the disputed service with denial reduction code; "167 – This (these) diagnosis (es) is (are) not covered."

The insurance carrier notified the requestor of such issues in its explanation of benefits (EOB) responses during the medical bill review process.

28 TAC §133.305(b) requires that extent of injury disputes be resolved prior to the submission of a medical fee dispute for the same services. 28 TAC §133.307(f)(3)(C) provides for dismissal of a medical fee dispute if the request for the medical fee dispute contains an unresolved extent of injury dispute for the claim. 28 TAC §133.307(c)(2)(K) provides that a request for a medical fee dispute must contain a copy of each EOB related to the dispute.

The DWC hereby notifies the requestor that the appropriate process to resolve the issue of extent of injury for date of service April 10, 2019, including disputes or disagreements among the parties over whether the medical services in dispute were related to the compensable injury, may be found in Chapter 410 of the TLC, and 28 TAC §141.1. As a courtesy to the requestor, instructions on how to file for resolution of the extent of injury issue are attached.

Because an unresolved extent of injury issue exists for prescribed medication Gabapentin 400 mg Capsule TIM rendered on April 10, 2019, will not be considered in this dispute.

3. Memorial is seeking reimbursement of \$122.99 for prescribed medication Cyclobenzaprine 10 mg tablet CIP dispensed on April 10, 2019. The insurance carrier denied the disputed drug with claim adjustment reason code "197 – Precertification/ authorization/notification absent."

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 April 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 drug in question did not require preauthorization and the insurance carrier's denial of payment for this reason is not supported.

Therefore, the disputed drug will be reviewed for reimbursement, pursuant to 28 TAC §134.503.

4. 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: ((AWP per unit) x (number of units) x 1.25) + \$4.00 dispensing fee per prescription = reimbursement amount."

The reimbursement for the generic drug in this dispute is calculated as follows:

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

- Cyclobenzaprine 10 mg tablets CIP: 1.09150 x 60 = \$65.49 x 1.25 = \$81.86 + \$4.00 = \$85.86

The total reimbursement is therefore \$85.86. 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 \$85.86.

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 \$85.86 plus applicable accrued interest per 28 TAC §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

October 3, 2019

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.