



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

Texas Mutual Insurance Company

MFDR Tracking Number

M4-19-4844-01

Carrier's Austin Representative

Box Number 54

MFDR Date Received

July 12, 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: \$381.60

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "... audit staff found no evidence from the treating provider to support the prescribed Voltaren, furthermore preauthorization was not obtained for the compound drug ..."

Response Submitted by: Texas Mutual Insurance Company

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
April 24, 2019	Voltaren 1% Gel	\$381.60	\$357.27

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 (DWC).

Background

- 28 Texas Administrative Code §133.210 sets out the procedures for medical documentation.
- 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 Codes §§134.530 and 134.540 set out the procedures for preauthorization of pharmaceutical services.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - A11 – Preauthorization required for "N" drugs in ODG Appendix A per Rule 134.503 & 134.504

- CAC-16 – Claim/service lacks information or has submission/billing error(s) which is needed for adjudication.
- CAC-197 – Precertification/authorization/notification absent.
- CAC-45 – Charge exceeds fee schedule maximum allowable or contracted/legislated fee arrangement.
- 784 – Service exceeds recommendations of treatment guidelines (ODG) in accordance to rule 1305.304.
- 859 – Documentation does not support the continued use of the medication for this patient
- 874 – Documentation does not support the use of the medication in topical form.
- CAC-193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- 891 – No additional payment after reconsideration

Issues

1. Is this dispute subject to dismissal based on medical necessity?
2. Is Texas Mutual Insurance Company’s denial of payment based on billing or submission errors supported?
3. Is Texas Mutual Insurance Company’s denial of payment based on documentation supported?
4. Is Texas Mutual Insurance Company’s denial of payment based on preauthorization supported?
5. Is Memorial Compounding Pharmacy (Memorial) entitled to additional reimbursement?

Findings

1. Memorial is seeking reimbursement for Voltaren 1% Gel dispensed on April 24, 2019. Texas Mutual Insurance Company denied payment for this drug, 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 Texas Mutual Insurance Company provided no evidence to support that it performed a utilization review on the drug in question to determine medical necessity.⁴

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

2. The insurance carrier also denied the disputed drug based on billing or submission errors. The DWC finds no billing or submission errors in the documentation provided for this dispute. This denial reason is not supported.
3. Texas Mutual Insurance Company also denied payment based on lack of documentation to support the drug. Pharmaceutical services do not require documentation with billing.⁵

Any request by the insurance carrier for additional documentation must:

- (1) be in writing;
- (2) be specific to the bill or the bill's related episode of care;
- (3) describe with specificity the clinical and other information to be included in the response;
- (4) be relevant and necessary for the resolution of the bill;
- (5) be for information that is contained in or in the process of being incorporated into the injured employee's medical or billing record maintained by the health care provider;
- (6) indicate the specific reason for which the insurance carrier is requesting the information; and

¹ 28 TAC §133.305(b)

² 28 TAC §133.240(q)

³ 28 TAC §133.307(d)(2)(I)

⁴ 28 TAC §§134.240 and 19.2009

⁵ 28 TAC §133.210(c)

(7) include a copy of the medical bill for which the insurance carrier is requesting the additional documentation.⁶

The DWC found no evidence to support that the insurance carrier made an appropriate request for additional documentation. Texas Mutual Insurance Carrier's denial for this reason is not supported.

4. The insurance carrier also denied the disputed drug, in part, based on preauthorization. Preauthorization is only required for:
- drugs identified with a status of "N" in the current edition of the ODG Appendix A⁷;
 - 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.⁸

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 for this reason.⁹

The DWC finds that the drug in question does not constitute a compound. Therefore, this drug does not require preauthorization for this reason.¹⁰

The submitted documentation does not support that the disputed drug is experimental or investigational. Therefore, this drug does not require preauthorization for this reason.¹¹

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

5. Because Texas Mutual Insurance Company failed to support its denial of payment for the drug in question, Memorial is entitled to reimbursement.

The reimbursement considered in this dispute is calculated as follows¹²:

- Voltaren 1% Gel: $(0.6482 \times 500 \times 1.09) + \$4.00 = \$357.27$

The total reimbursement is therefore \$357.27. 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 \$357.27.

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 \$357.27, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

Signature

Laurie Garnes
Medical Fee Dispute Resolution Officer

October 25, 2019
Date

⁶ 28 TAC §133.210(d)

⁷ *ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary*

⁸ 28 Texas Administrative Code §134.530(b)(1)

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

¹⁰ 28 TAC §§134.530(b)(1)(B) and (C), and §134.540(b)(1) and (2)

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

¹² 28 Texas Administrative Code §134.503(c)

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 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. **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.