



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

American Zurich Insurance Company

MFDR Tracking Number

M4-19-4947-01

Carrier's Austin Representative Box

BOX 19

Fee Dispute Request Received

July 22, 2019

Response Submitted by:

Flahive Ogden & Latson

REQUESTOR POSITION SUMMARY

"It looks like the carrier processed and paid only PARTIAL of the total bill ... After reviewing the explanation of benefits it indicates that carrier paid **\$(74.56)** and not the full amount of **\$(163.18)**."

RESPONDENT POSITION SUMMARY

"The entitlement to medical benefits has been denied on the basis the services are not covered, i.e., extent of injury ... Under DWC rules, Memorial has, upon submission of its bill, been timely notified of the existence of the extent of injury/relatedness dispute."

SUMMARY OF REQUEST AND DIVISION ORDER

Disputed Date of Service	Disputed Service	Disputed Amount	Division Order
April 23, 2019	Cyclobenzaprine 10 mg Tablets	\$88.62	\$42.90

AUTHORITY

Texas Labor Code §413.031 (c). In resolving disputes over the amount of payment due for medically necessary services for treatment of the compensable injury, the role of the medical fee dispute resolution program is to adjudicate the payment given the relevant statutory provisions and commissioner rules.

Rule at 28 Texas Administrative Code §133.307 sets out the process for medical fee dispute resolution applicable to requestors, respondents, and the Texas Department of Insurance, Division of Workers' Compensation (DWC).

Background

Medical Bill Processing

Statutory timeframes are set for both submission of a medical bill, and payment, reduction or denial of a medical bill. See Texas Labor Code, Section 408.027. Specifically, it is the health care provider's duty to file a complete¹ medical bill within 95 days, while it is the workers' compensation insurance carrier's duty to pay, reduce, or deny a

¹ 28 Texas Administrative Code §133.2(4) Complete medical bill--A medical bill that contains all required fields as set forth in the billing instructions for the appropriate form specified in §133.10 of this chapter ... or as specified for electronic medical bills in §133.500 of this chapter

complete medical bill within 45 days from the date of receipt. An insurance carrier's 45-day deadline to make or deny payment is **not extended** as a result of an audit under 28 Texas Administrative Code §133.230, or as a result of a pending request for additional documentation.²

Further, the insurance carrier shall notify the health care provider of its final action³ by issuing an explanation of benefits (EOB) and shall include on its EOB any bill reductions, denial reasons, and defenses in the form and manner required by 28 TAC §133.240.⁴ No provision permits the insurance carrier to delay its final action past 45 days on a **complete** medical bill. Additionally, no provision excuses the insurance carrier from issuing an explanation of benefits to the billing provider that includes any denial reasons or defenses associated with reduction or denial of a medical bill.

Carrier's Failure to Timely Present Denial Reasons and Defenses

Under Rule §133.307, the DWC only reviews those denial reasons and defenses presented by the insurance carrier prior to the date the request for MFDR was filed. Any denial reasons or defenses raised by the insurance carrier after the filing of the dispute are not considered in the review.⁵

Findings

The health care provider in this case requested payment from American Zurich Insurance Company for Cyclobenzaprine 10 mg tablets and Acetaminophen/Codeine # 3 tablets provided to a covered injured employee. American Zurich Insurance Company did not pay, reduce, or deny the complete medical bill in 45 days.

Due to American Zurich Insurance Company's failure to take final action and issue an EOB required under the DWC's administrative rule 28 TAC §133.240, Memorial then asked for reconsideration and requested an EOB as required.⁶ Per explanation of benefits dated June 21, 2019, American Zurich Insurance Company reimbursed the billed Acetaminophen/Codeine #3 tablets. No evidence was provided to support that American Zurich Insurance Company reviewed the billed Cyclobenzaprine 10 mg tablets. Memorial then filed for medical fee dispute resolution (MFDR).

1. *Did American Zurich Insurance Company timely present any denial reasons to Memorial before the filing of this fee dispute?*

In its position statement, American Zurich Insurance Company indicated that it received a complete medical bill.

No evidence was presented by American Zurich Insurance Company to support that it paid, reduced, or denied Cyclobenzaprine 10 mg tablets within 45 days; nor did American Zurich Insurance Company present any evidence to support that it responded to the request for reconsideration and request for an EOB for this drug.

American Zurich Insurance Company, therefore failed to present **any** denial reasons or defenses to Memorial for this drug before the filing of this medical fee dispute. Any the defenses raised by American Zurich Insurance Company in its response to the medical fee dispute are new defenses and will not be considered in this review.⁷

Because 28 TAC 133.307(d)(2)(F) failed to present any defenses that conform with the requirements of 28 TAC §§133.240 and 133.250 discussed above, the DWC finds that Cyclobenzaprine 10 mg tablets is eligible for reimbursement.

²28 Texas Administrative Code §133.240(a).

³ 28 Texas Administrative Code §133.2 (6) Final action on a medical bill-- (A) sending a payment...(B) denying a charge on the medical bill.

⁴ 28 Texas Administrative Code §133.240 (e) The insurance carrier shall send the explanation of benefits in accordance with the elements required by §133.500 and §133.501...if the insurance carrier submits the explanation of benefits in the form of an electronic remittance. The insurance carrier shall send an explanation of benefits in accordance with subsection (f) of this section if the insurance carrier submits the explanation of benefits in paper form.

⁵ 28 Texas Administrative Code §133.307 (d)(2)(F) The carrier's response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the DWC and the other party. Any new denial reasons or defenses raised shall not be considered in the review.

⁶ 28 Texas Administrative Code §133.250

⁷ 28 TAC 133.307(d)(2)(F)

2. *What is the total reimbursement for the drug in dispute?*

Rule 28 Texas Administrative Code §134.503 applies to the reimbursement of pharmaceutical services. The calculation of the total allowable amount is as follows:

- Cyclobenzaprine 10 mg tablets: $(1.0374 \times 30 \times 1.25) + \$4.00 = \$42.90$

The total reimbursement is therefore \$42.90. This amount is recommended.

Decision

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 \$42.90.

DIVISION ORDER

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 \$42.90, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

_____	Laurie Garnes	August 16, 2019
Signature	Medical Fee Dispute Resolution Officer	Date

RIGHT TO APPEAL

Either party to this medical fee dispute may seek review of this DWC decision. To appeal, submit DWC Form-045M titled ***Request to Schedule, Reschedule, or Cancel a Benefit Review Conference to Appeal a Medical Fee Dispute Decision (BRC-MFD)*** found at <https://www.tdi.texas.gov/forms/form20numeric.html>.

Follow the instructions on pages 3 and 4. The request must be received by the DWC within twenty days of your receipt of this decision. This decision becomes final if the request for review of a this decision is not timely made.

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.

If you have questions about the DWC Form-045M, please call CompConnection at 1-800-252-7031, Option 3 or you may email your question to CompConnection@tdi.texas.gov

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 1-800-252-7031, Option 1.