



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645

(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Memorial Compounding Pharmacy

Respondent Name

Zurich American Insurance Company

MFDR Tracking Number

M4-19-5350-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

August 30, 2019

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The carrier has received the attached bill and has not processed according to Texas Labor Code 408.027."

Amount in Dispute: \$341.83

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The Carrier has denied entitlement to the prescription drugs the subject of this request. See attached EOB."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 13, 2019	Zolpidem Tartrate 10 mg Tablets	\$196.25	\$177.44
May 13, 2019	Etodolac 400 mg Tablets	\$145.58	\$114.10
Total		\$341.83	\$291.54

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. Texas Insurance Code, Chapter 19 sets out the requirements for utilization review.
5. The insurance carrier denied payment for the disputed drugs based on medical necessity.

Issues

1. Is this dispute subject to dismissal based on medical necessity?
2. Is Memorial Compounding Pharmacy (Memorial) entitled to reimbursement for the drugs in question?

Findings

1. Memorial is seeking reimbursement for drugs dispense on May 13, 2019. Per explanation of benefits dated July 5, 2019, the insurance carrier denied the disputed compound 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 to the DWC in its response to a medical fee dispute.³ Zurich American Insurance Company provided no evidence to support that it performed a utilization review on the drugs 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. Because the insurance carrier failed to support its denial of payment for the disputed drugs, Memorial is entitled to reimbursement.

The reimbursement considered in this dispute is calculated as follows⁵:

- Zolpidem Tartrate 10 mg tablets: $(4.6251 \times 30 \times 1.25) + \$4.00 = \$177.44$
- Etodolac 400 mg tablets: $(1.468 \times 60 \times 1.25) + \$4.00 = \$114.10$

The total reimbursement is therefore \$291.54. 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 \$291.54.

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 \$291.54, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

	Laurie Garnes	October 11, 2019
Signature	Medical Fee Dispute Resolution Officer	Date

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)(I)
⁴ 28 Texas Administrative Codes §§134.240 and 19.2009
⁵ 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.