



# 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**

M4-20-0128-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

September 16, 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:** \$405.41

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "The Carrier issued the attached EOB paying the bill on 8/14/19..."

**Response Submitted by:** Flahive, Ogden & Latson

#### SUMMARY OF FINDINGS

| Dates of Service | Disputed Services        | Amount In Dispute | Amount Due |
|------------------|--------------------------|-------------------|------------|
| June 5, 2019     | Prescription Medications | \$405.41          | \$0.00     |

#### 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). 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.

**Issues**

Is Memorial Compounding Pharmacy (Memorial) entitled to additional reimbursement?

**Findings**

Memorial is seeking reimbursement for medications dispensed on June 5, 2019. Evidence submitted to the DWC indicates that the insurance carrier issued a payment to Memorial on August 14, 2019. The DWC concludes that Memorial has received payment for the service in dispute.

The insurance carrier reduced the billed amount to a total payment of \$303.12 citing the workers' compensation fee schedule as its reason for the reduction. Rule at 28 TAC §134.503(c) applies and states, in pertinent part, that the insurance carrier shall reimburse the lesser of:

1. the fee established by the DWC's applicable formula 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; or
2. the amount billed to the insurance carrier.

Memorial is requesting reimbursement in the amount of \$405.41 for the disputed drugs. Memorial has the burden to support its request for this amount. In its original position statement, Memorial did not show how it arrived at the requested amount or whether that amount is consistent with the methodology under 28 TAC §134.503(c).

After notification by the DWC's medical fee dispute resolution program of the insurance carrier's response and payment, Memorial did not take the opportunity to refute the insurance carrier's payment calculation. For that reason, the DWC moves to resolve this dispute with the information available and concludes that no additional reimbursement can be recommended.

### **Conclusion**

For the reasons stated above, the DWC finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

### ***ORDER***

Based on the submitted information, pursuant to Texas Labor Code Section 413.031, the DWC hereby determines the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

### **Authorized Signature**

|           |  |                         |
|-----------|--|-------------------------|
| _____     | <u>Laurie Garnes</u>                   | <u>October 25, 2019</u> |
| 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 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.**