



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 RX

Respondent Name

Indemnity Insurance Company of North America

MFDR Tracking Number

M4-20-0436-01

Carrier's Austin Representative

Box Number 15

MFDR Date Received

October 18, 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: \$130.31

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The medication at issue in this dispute was prescribed by Anibal F. Rossel, M.D. However, Dr. Rossel is not the treating doctor, nor is he a referral doctor. Therefore, Dr. Rossel is not authorized to prescribe medication to the Claimant for the workers' compensation injury."

Response Submitted by: Downs-Stanford, P.C.

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: July 9, 2019, Naproxen 500 mg Tablets, \$130.31, \$95.01

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

- 1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
3. The insurance carrier denied payment for the disputed drug based on authorization.

Issues

1. Is the insurance carrier's denial of payment based on preauthorization supported?
2. Is the insurance carrier's denial of payment based on prescriber authorization supported?
3. Is Memorial Compounding Rx (Memorial) entitled to payment for the drug in question?

Findings

1. Memorial is seeking reimbursement for Naproxen 500 mg tablets dispensed on July 9, 2019. The insurance carrier denied payment, stating "payment denied/reduced for absence of precertification/authorization."

Preauthorization is only required for:

- drugs identified with a status of "N" in the current edition of the ODG, Appendix A¹;
- any compound prescribed before July 1, 2018 that contains a drug identified with a status of "N" in the current edition of the ODG Appendix A;
- any prescription drug created through compounding prescribed and dispensed on or after July 1, 2018; and
- any investigational or experimental drug.²

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.³

The submitted documentation does not support that the disputed drug is a compound. Therefore, this drug does not require preauthorization for this reason.⁴

The submitted documentation does not support that the disputed drug is experimental or investigational. Therefore, this drug does not require preauthorization for this reason.⁵

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

2. The submitted explanation of benefits also denied the disputed drug stating, "payment is denied – service not authorized." In its position statement, Downs-Stanford argued on behalf of the insurance carrier that "Dr. Rossel is not the treating doctor, nor is he a referral doctor. Therefore, Dr. Rossel is not authorized to prescribe medication to the Claimant for the workers' compensation injury."

Information available to the DWC supports that the prescriber, Anibal F. Rossel, M.D. is the treating doctor for the claim in question. The insurance carrier did not submit any documentation to support that Dr. Rossel was not the treating doctor.

The DWC finds that the insurance carrier's denial of payment for this reason is not supported.

3. 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 follows⁶:

- Naproxen 500 mg tablets: $(1.2135 \times 60 \times 1.25) + \$4.00 = \$95.01$

The total reimbursement is \$95.01. This amount is recommended.

¹ ODG *Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary*

² 28 TAC §134.530(b)(1) and §134.540(b)

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

⁴ 28 TAC §134.530(b)(1)(B) and (C), and §134.540(b)(2) and (3)

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

⁶ 28 Texas Administrative Code §134.503(c)

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 \$95.01.

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 \$95.01, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

	Laurie Garnes	December 3, 2019
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.