



# 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**

North River Insurance Company

**MFDR Tracking Number**

M4-20-0603-01

**Carrier's Austin Representative**

Box Number 53

**MFDR Date Received**

November 4, 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:** \$192.64

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Enclosed herein is the EOB dated 10-17-19 which denied reimbursement due to lack of pre-authorization for the 'N' drug dispensed."

**Response Submitted by:** Hoffman Kelley Lopez, LLP

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 16, 2019	Diclofenac Sodium 1% Gel	\$110.12	\$0.00
July 16, 2019	Ibuprofen 800 mg Tablets	\$82.52	\$35.27
	Total	\$192.64	\$35.27

#### 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**

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. 28 Texas Administrative Codes §§134.530 and 134.540 set out the preauthorization requirements for pharmaceutical services.
4. The insurance carrier denied payment for the disputed drugs based on preauthorization.

## Issues

1. Is Memorial Compounding Rx (Memorial) entitled to reimbursement for Diclofenac Sodium 1% Gel?
2. Is Memorial entitled to reimbursement for Ibuprofen?

## Findings

1. Memorial is seeking reimbursement, in part, for Diclofenac Sodium 1% Gel dispensed on July 16, 2019. Submitted documentation indicates that the insurance carrier denied this drug based on preauthorization. Preauthorization is only required for:

- drugs identified with a status of “N” in the current edition of the ODG, Appendix A<sup>1</sup>;
- 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.<sup>2</sup>

The DWC finds that the topical form of this drug has a status of “N” in the ODG, Appendix A. The submitted documentation did not include any evidence that Memorial obtained preauthorization prior to the dispense of this drug.

The DWC concludes that Memorial is not entitled to reimbursement for Diclofenac Sodium 1% Gel.

2. Memorial is also seeking reimbursement for Ibuprofen 800 mg tablets dispensed on July 16, 2019. Submitted documentation indicates that the insurance carrier also denied this drug based on preauthorization.

The DWC finds that Ibuprofen 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.

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

The submitted documentation does not support that Ibuprofen is experimental or investigational. Therefore, it does not require preauthorization for this reason.

The DWC concludes that the insurance carrier’s denial of payment of Ibuprofen 800 mg tablets based on preauthorization is not supported.

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 follows<sup>3</sup>:

- Ibuprofen 800 mg tablets:  $(0.8339 \times 30 \times 1.25) + \$4.00 = \$35.27$

The total reimbursement is therefore \$35.27. 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 \$35.27.

---

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

<sup>2</sup> 28 TAC §134.530(b)(1) and §134.540(b)

<sup>3</sup> 28 Texas Administrative Code §134.503(c)

**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 \$35.27, 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	December 3, 2019 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.**