



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

XL SPECIALTY INSURANCE COMPANY

MFDR Tracking Number

M4-20-0885-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

December 10, 2019

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The above claimant received Medication as prescribed by referral provider. Bill for date of service 09/27/2019 still has not been processed by the carrier. All bills are required to be processed within 45 days of receipt by the carrier as per Texas Labor Code 408.027 (b)."

Amount in Dispute: \$109.18

RESPONDENT'S POSITION SUMMARY

The Austin carrier representative for XL SPECIALTY INSURANCE COMPANY is FLAHIVE, OGDEN & LATON. FLAHIVE, OGDEN & LATON acknowledged receipt of the copy of this medical fee dispute on December 17, 2019. 28 TAC §133.307 (d) (1) states that if the division does not receive the response within 14 calendar days of the dispute notification, then the division may base its decision on the available information. As of today, no response has been received from the carrier or its representative. We therefore base this decision on the information available as authorized under §133.307 (d) (1.)

SUMMARY OF DISPUTED SERVICE(S)

Date(s) of Service	Disputed Service(s)	Amount in Dispute	Amount Due
September 27, 2019	Prescribed Medications	\$109.18	\$68.60

FINDINGS AND DECISION

Texas Labor Code (TCL) §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.

Texas Administrative Code (TAC) §133.307 sets out the process for medical fee dispute resolution for non-network care.

Background

- 28 Texas Administrative Code (TAC) §133.307 sets out the procedures for resolving medical fee disputes
- 28 TAC §134.503 sets out the reimbursement for compound medications
- Explanation of Benefits:
 - 197 – Precertification/Authorization/ Notification/Pre-Treatment Absent

Findings

1. Does the disputed service require preauthorization?

The requestor is seeking reimbursement in the amount of \$109.18 for a prescription medication dispensed September 27, 2019. The carrier denied the disputed medication with denial reason code "197 – Precertification/Authorization/Notification/Pre-Treatment Absent."

For the date of service in dispute the applicable rule is 28 TAC §134.530(b)(2) which states that preauthorization is only required for:

- drugs identified with a status of "N" in the current edition of the ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary, and any updates;
- any compound that contains a drug identified with a status of "N" in the current edition of the ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary, and any updates; and
- any investigational or experimental drug for which there is early, developing scientific or clinical evidence demonstrating the potential efficacy of the treatment, but which is not yet broadly accepted as the prevailing standard of care as defined in Labor Code §413.014(a);

DWC finds that the medication rendered on the date of service in question does not include a drug identified with a status of "N" in the current edition of the ODG, Appendix A. Therefore, DWC concludes that the medication in question did not require preauthorization and the carrier's denial of payment for this reason is not supported. Therefore, the disputed medication will be reviewed for reimbursement.

1. What is the total reimbursement for the service in dispute?

Rule 28 TAC §134.503 applies to the reimbursement for medications. The medications in dispute are listed on the bill separately.⁶

The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:

(1) the fee established by the following formulas 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:

(A) Generic drugs: $(\text{AWP per unit}) \times (\text{number of units}) \times 1.25 + \4.00 dispensing fee per prescription = reimbursement amount.

¹ 28 TAC §133.240 (a) An insurance carrier shall take final action after conducting bill review on a complete medical bill, or determine to audit the medical bill in accordance with §133.230 of this chapter (relating to Insurance Carrier Audit of a Medical Bill), not later than the 45th day after the date the insurance carrier received a complete medical bill. An insurance carrier's deadline to make or deny payment on a bill is not extended as a result of a pending request for additional documentation

² 28 TAC §133.2 (6) Final action on a medical bill-- (A) sending a payment...(B) denying a charge on the medical bill.

³ 28 TAC §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.

⁴ 28 TAC §133.250

⁵ 28 TAC §134.503 (c)

The calculation of the total allowable amount is as follows:

Drug	NDC	Generic(G) /Brand(B)	Price /Unit	Units Billed	AWP Formula	Billed Amount	Lesser of AWP and Billed
Cyclobenzaprine 5mg	10702000610	G	\$1.72260	30	\$68.60	\$109.18	\$68.60
Total						\$109.18	\$68.60

The total reimbursement is therefore \$68.60. This amount is recommended.

Decision

For the reasons above, the DWC finds that reimbursement is due. As a result, the amount ordered is \$68.60.

DIVISION ORDER

The DWC has determined that the requestor is entitled to additional reimbursement for the disputed services. The DWC hereby ORDERS the respondent to remit to the requestor \$68.60, plus applicable accrued interest per 28 TAC §134.130, due within 30 days of receipt of this order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Auditor

Date

January 17, 2020

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 (20) of your receipt of this decision. This decision becomes final if the request for review of this decision is not submitted within twenty days (20).

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.