



# 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 RX

**Respondent Name**

ACE American Insurance Company

**MFDR Tracking Number**

M4-20-0944-01

**Carrier's Austin Representative**

Box Number 15

**MFDR Date Received**

December 16, 2019

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "After reviewing the explanation of benefits it indicates that carrier paid \$0.00 and not the full amount of \$110.12. This claim should be processed with the full amount billed as per Administrative Labor Code 134.503 C."

**Amount in Dispute:** \$110.12

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "The Provider submitted billing for filling the prescribed diclofenac sodium gel. The Carrier reviewed the billing in question and denied reimbursement as no preauthorization had been requested or approved for the dispensing of the N-listed drug. The Carrier maintains that no reimbursement is due as preauthorization was not requested or approved prior to providing the disputed services."

**Response Submitted by:** Constitution State Services

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 13, 2019	Diclofenac Sodium 1% Gel	\$110.12	\$69.78

### 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**

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
- 28 Texas Administrative Codes §§134.530 and 134.540 set out the closed formulary requirements.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 197 – No prior request for authorization was received. Precertification/authorization/notification absent.

## Issues

1. Is the insurance carrier's denial of payment based on preauthorization supported?
2. Is Memorial Compounding Rx (Memorial) entitled to additional reimbursement?

## Findings

1. Memorial is seeking reimbursement for Diclofenac Sodium 1% Gel dispensed on September 13, 2019. ACE American Insurance Company denied the 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>

Review of the ODG, Appendix A finds that Diclofenac Sodium 1% Gel does not have a status of "N". No evidence was provided to indicate that the drug in question is a compound drug.

The determination of a service's investigational or experimental nature is determined on a case by case basis through utilization review.<sup>3</sup> Constitution State Services provided no argument or evidence that the insurance carrier engaged in a prospective or retrospective utilization review to establish that the specific drug considered in this review is investigational or experimental.

The DWC finds that the insurance carrier failed to support that Diclofenac Sodium 1% Gel required preauthorization.

2. Because the insurance carrier failed to support its denial of payment for the disputed drug, Memorial is entitled to reimbursement.

The reimbursement considered in this dispute is calculated as follows<sup>4</sup>:

- Diclofenac Sodium 1% Gel:  $(0.5262 \times 100 \times 1.25) + \$4.00 = \$69.78$

The total allowable reimbursement is \$69.78. 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 \$69.78.

## **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 \$69.78, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

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<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> Texas Insurance Code §19.2005(b)

<sup>4</sup> 28 Texas Administrative Code §134.503(c)

**Authorized Signature**

\_\_\_\_\_  
Signature

Laurie Garnes  
\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

January 16, 2020  
\_\_\_\_\_  
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.**