



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

ZURICH AMERICAN INSURANCE CO

MFDR Tracking Number

M4-20-0960-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

December 16, 2019

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The request for reconsideration in accordance with Rule 133.250 was submitted to the carrier but claim was processed and denied again. The insurance carrier is required to take final action on the claim that references the original denial. The claim was denied for LACK OF PREAUTHORIZATION."

Amount in Dispute: \$126.88

RESPONDENT'S POSITION SUMMARY

No response received

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: August 15, 2019, Zolpidem Tartrate, \$126.88, \$86.72

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.

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 Code §134.530 sets out the closed formulary requirements for claims not subject to certified networks.
4. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
- 00438 197 - Precertification/authorization/notification/pre-treatment absent
- 00663 - Reimbursement has been calculated according to state fee schedule guidelines

## Issues

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

## Findings

1. The Austin carrier representative for Zurich American Insurance Co is Flahive Ogden & Latson. Flahive Ogden & Latson acknowledged receipt of the copy of this medical fee dispute on December 20, 2019. Rule §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).

2. The insurance carrier also denied the disputed compound based on preauthorization. Preauthorization is only required for:
  - drugs identified with a status of "N" in the current edition of the ODG, Appendix A2;
  - 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; and
  - any investigational or experimental drug.

The division finds that the drug in question are not identified with a status of "N" in the applicable edition of the ODG, Appendix A. Therefore, this drug does not require preauthorization per 28 TAC §134.530(b)(2)(A).

The submitted documentation does not support that the drug in question constituted a compound drug. Therefore, this drug does not require preauthorization per 28 TAC §134.530(b)(2)(B).

The submitted documentation does not support that the disputed drug is experimental or investigational. Therefore, this drug does not require preauthorization per 28 TAC §134.530(b)(2)(C).

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

3. 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:

- Zolpidem Tartrate 5 MG:  $(4.62510 \times 15 \times 1.25) = \$86.72$

The total allowable reimbursement is \$86.72. This amount is recommended.

## Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$86.72.

## **ORDER**

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$86.72, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

## Authorized Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

February 7, 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 division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the division 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.**