



# 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 Company

**MFDR Tracking Number**

M4-20-1186-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

January 13, 2020

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "These medication due not require preauthorization therefore do not need a retrospective review."

**Amount in Dispute:** \$66.03

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** Submitted documentation does not include a position statement from the respondent. Accordingly, this decision is based on the information available at the time of adjudication.

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 6, 2019	Acetaminophen/Codeine #3 Tablets	\$66.03	\$14.66

### 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 §134.502 sets out the procedures for pharmaceutical benefits.
- 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
- 28 Texas Administrative Codes §§134.530 and 134.540 sets out the closed formulary requirements.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 197 – Precertification/authorization/notification/pre-treatment absent.
  - P12 – Workers' compensation jurisdictional fee schedule adjustment.
  - 5264 – Payment is denied-service not authorized.
  - D3 – The charge for the prescription drug is greater than the maximum

- N447 – Payment is based on a generic equivalent as required documentation was not provided.
- CO – Contractual obligation

### Issues

1. Did Zurich American Insurance Company respond to the medical fee dispute?
2. Is the dispute subject to dismissal based on network status?
3. Is the insurance carrier’s reason for denial of payment based on preauthorization supported?
4. Is Memorial Compounding Rx (Memorial) entitled to reimbursement for the compound in question?

### Findings

1. The Austin insurance carrier representative for Zurich American Insurance Company is Flahive, Ogden & Latson. The representative received the copy of this medical fee dispute on January 22, 2020. If the DWC does not receive the response within 14 calendar days of the dispute notification, then the DWC may base its decision on the available information.<sup>1</sup>

As of today, no response has been received from the insurance carrier or its representative. We will base this decision on the information available.

2. Memorial is seeking reimbursement for Acetaminophen/Codeine #3 tablets dispensed on September 6, 2019. Zurich American Insurance Company denied the drug, in part, based on “contractual obligation.”

Prescription medication or services may not be directly or through a contract, be delivered through a workers’ compensation health care network.<sup>2</sup>

The DWC concludes that the disputed prescription medication dispensed by the provider in this case – Memorial Compounding Rx – is not subject to the provisions of a workers’ compensation health care network. Therefore, the insurance carrier’s denial for this reason is not supported.

3. 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 A<sup>3</sup>;
- any prescription drug created through compounding 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 updates;
- any prescription drug created through compounding prescribed and dispensed on or after July 1, 2018; and
- any investigational or experimental drug.<sup>4</sup>

The DWC finds that the drug is not identified with a status of “N” in the current edition of the ODG Appendix A.

No evidence was presented to support that the drug in question was investigational or experimental. The insurance carrier’s preauthorization denial is therefore not supported.

4. Because Zurich American Insurance Company failed to support its denial reason for the service in this dispute, the DWC finds that Memorial is entitled to reimbursement.

The reimbursement considered in this dispute is calculated as follows<sup>5</sup>:

- Acetaminophen/Codeine #3 tablets:  $(0.28435 \times 30 \times 1.25) + \$4.00 = \$14.66$

The total allowable reimbursement is \$14.66. This amount is recommended.

<sup>1</sup> 28 TAC §133.307 (d)(1)

<sup>2</sup> Texas Insurance Code §1305.101 (c)

<sup>3</sup> *ODG Treatment in Workers’ Comp* (ODG) / Appendix A, *ODG Workers’ Compensation Drug Formulary*

<sup>4</sup> 28 Texas Administrative Codes §§134.530 (b)(1) 134.540 (b)

<sup>5</sup> 28 TAC §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 \$14.66.

***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 \$14.66, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

**Authorized Signature**

	Laurie Garnes	March 5, 2020
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.**