



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

INJURED WORKERS PHARMACY LLC

Respondent Name

SAFETY NATIONAL CASUALTY CORP

MFDR Tracking Number

M4-20-1678-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

March 6, 2020

REQUESTOR'S POSITION SUMMARY

"... the medication is specifically indicated to by a 'Y' drug per the ODG website ... Invoices have been priced according to Texas fee schedule, utilizing Red Book as the pricing source."

Amount in Dispute: \$13,280.94

RESPONDENT'S POSITION SUMMARY

"Our bill audit company has determined no further payment is due. The rationale for this determination is found below. *Preauthorization absent*"

Response Submitted by: Gallagher Bassett

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
January 24, 2019	Diclofenac Sodium Gel	\$4,426.98	\$0.00
February 13, 2019	Diclofenac Sodium Gel	\$4,426.98	\$0.00
March 11, 2019	Diclofenac Sodium Gel	\$4,426.98	\$4,426.98
Total		\$13,280.94	\$4,426.98

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 preauthorization requirements for pharmaceutical services.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes

prior to the request for medical fee dispute resolution:

- 197 – Precertification/authorization/notification/pre-treatment absent.
- 663 – Reimbursement has been calculated according to state fee schedule guidelines
- 93 – No Claim level Adjustments
- P12 – Workers’ compensation jurisdictional fee schedule adjustment.
- 18 – Exact duplicate claim/service
- 950 – This bill is a reconsideration of a previously reviewed bill, allowance amounts do not reflect previous payments.
- 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- 16 – Claim/service lacks information or has submission/billing error(s)

Issues

1. Did Injured Workers Pharmacy, LLC forfeit the right to medical fee dispute resolution for the date of service in question?
2. Is Safety National Casualty Company’s denial of payment based on billing or submission errors supported?
3. Is Safety National Casualty Company’s denial of payment based on preauthorization supported?
4. Is Injured Workers Pharmacy, LLC entitled to reimbursement for the services considered in this dispute?

Findings

1. Injured Workers Pharmacy, LLC is seeking reimbursement for Diclofenac Sodium Gel dispensed on dates of service:
 - January 24, 2019
 - February 13, 2019
 - March 11, 2019

The health care provider must request medical fee dispute resolution within one year from the date of service, except if a related compensability, extent of injury, or liability dispute exists; or a dispute regarding medical necessity has been filed.¹ If these exceptions apply, a request for medical fee dispute resolution must be filed within 60 days of the final adjudication of the disputed issue.

The DWC received the medical fee dispute resolution request on March 6, 2020. This is more than one year after dates of service January 24, 2019, and February 13, 2019. The DWC found no evidence to support that final adjudication of an exception applied to this date of service. The DWC finds that Injured Workers Pharmacy, LLC has forfeited the right to medical fee dispute resolution for these dates of service.

The DWC finds that date of service March 11, 2019, was submitted timely for medical fee dispute resolution. This date of service will be reviewed in this dispute.

2. Safety National Casualty Company denied the disputed drug based, in part on billing or submission errors. Review of the submitted documents finds that the insurance carrier did not maintain or argue this defense in subsequent reviews. The DWC finds that this reason for denial of payment is not supported.
3. Safety National Casualty Company also denied the disputed drug based on lack of preauthorization. Preauthorization is only required for:
 - drugs identified with a status of “N” in the current edition of the ODG Appendix A²;
 - 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

¹ 28 TAC §133.307 (c)(1)

² ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary

- any investigational or experimental drug.³

The DWC finds that the evidence presented by Injured Workers Pharmacy LLC supports that the drug in this dispute is not identified with a status of “N” in the relevant 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 Safety National Casualty Company failed to support its denial reason for the service in this dispute, the DWC finds that Injured Workers Pharmacy LLC is entitled to reimbursement.

The reimbursement considered in this dispute is calculated as follows⁴:

- Diclofenac Sodium Gel 3%: $(11.7946 \times 300 \times 1.25) + \$4.00 = \$4,426.98$

The total allowable reimbursement is \$4,426.98. 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 \$4,426.98.

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 \$4,426.98, 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

Date

June 25, 2020

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.

³ 28 Texas Administrative Codes §§134.530 (b)(1) and 134.540 (b)

⁴ 28 TAC §134.503 (c)