



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

New Hampshire Insurance Company

MFDR Tracking Number

M4-20-1684-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

March 6, 2020

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Based on the diagnosis in which treatment is being prescribed, the medications being shipped are all 'Y' drugs per the Texas Formulary."

Amount in Dispute: \$9,160.10

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The DWC060 was filed on March 6, 2020. Accordingly, DOS, 6/6/2018, 6/29/2018, 7/24/2018 and 8/22/2018 must be DISMISSED as untimely ... As the remaining DOS were for conditions finally determined to be non-compensable, and as claimants and their providers are only entitled to payment for medical treatment for non-compensable conditions, the Requestor should be found not entitled to reimbursement."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: June 4, 2018 through August 17, 2019; Diclofenac Sodium 3% Gel; \$9,160.10; \$0.00

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

- 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 preauthorization requirements for pharmaceutical services.

4. The insurance carrier denied payment for the disputed drugs based on preauthorization

**Issues**

1. Did Injured Workers’ Pharmacy, LLC forfeit its right to medical fee dispute resolution for the dates of service in question?
2. Is the insurance carrier’s denial of payment based on preauthorization supported?
3. Is Injured Workers’ Pharmacy LLC entitled to reimbursement for the disputed drugs?

**Findings**

1. Injured Workers’ Pharmacy is seeking reimbursement for drugs dispensed on dates of service June 4, 2018, through August 17, 2019.

The health care provider must request medical fee dispute resolution within one year from the date of service, with the following exceptions:

- a related compensability, extent of injury, or liability dispute exists,
- a medical dispute regarding medical necessity has been filed, or
- the dispute relates to a refund notice issued pursuant to a division audit or review.<sup>1</sup>

The DWC received the medical fee dispute resolution request on March 6, 2020. This is more than one year after dates of service June 4, 2018, through August 22, 2018. The DWC found no evidence to support that an exception applied to these dates of service. Injured Workers’ Pharmacy has forfeited its right to medical fee dispute resolution for these dates of service.

The DWC finds that dates of service March 20, 2019, through August 17, 2019, are eligible for review in this dispute.

2. New Hampshire Insurance Company denied the disputed drug, Diclofenac Sodium 3% gel, based on preauthorization.

Drugs identified with a status of “N” in the current edition of the ODG Appendix A<sup>2</sup> require preauthorization before dispensing.<sup>3</sup> The DWC finds that a form of Diclofenac Sodium is identified with a status of “N.”

Injured Workers’ Pharmacy LLC did not provide sufficient evidence to refute this status. The insurance carrier’s preauthorization denial is therefore supported. The DWC finds that Injured Workers’ Pharmacy LLC is not entitled to reimbursement for the disputed drug.

**Conclusion**

For the reasons stated above, the DWC finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

***ORDER***

Based on the submitted information, pursuant to Texas Labor Code Section 413.031, the DWC hereby determines the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

**Authorized Signature**

		April 3, 2020
Signature	Medical Fee Dispute Resolution Officer	Date

<sup>1</sup> 28 TAC §133.307 (c)(1)

<sup>2</sup> ODG Treatment in Workers’ Comp (ODG) / Appendix A, ODG Workers’ Compensation Drug Formulary

<sup>3</sup> 28 TAC §134.530 (b)(1)

### ***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.**