



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

INDEMNITY INSURANCE CO OF NORTH AMERICA

MFDR Tracking Number

M4-20-1855-01

Carrier's Austin Representative

Box Number 15

MFDR Date Received

April 2, 2020

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Memorial Compounding has provided service and met all requirements to receive reimbursement."

Amount in Dispute: \$507.52

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Respondent has disputed the bills in dispute as the medications were for conditions not related to the compensable injury, but instead related to disputed conditions."

Response Submitted by: Downs-Stanford, PC

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
December 5, 2019	Meloxicam 7.5 mg tablets	\$247.62	\$0.00
December 5, 2019	Omeprazole DR 20 mg capsules	\$259.90	257.00
	Total	\$507.52	\$257.00

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.

Issues

1. Did the insurance carrier raise a new defense in its response?
2. Is Memorial Compounding Rx (Memorial) entitled to additional reimbursement for Meloxicam?
3. Is Memorial entitled to reimbursement Omeprazole?

Findings

1. Memorial is seeking \$507.52 for drugs dispensed on December 5, 2019. In its position statement, Downs-Stanford, PC, on behalf of the insurance carrier, argued that "Respondent has disputed the bills in dispute as the medications were for conditions not related to the compensable injury."

The response from the insurance carrier is required to address only the denial reasons presented to the health care provider before to the request for medical fee dispute resolution (MFDR) was filed with the DWC. Any new denial reasons or defenses raised shall not be considered in this review.¹

The submitted documentation does not support that a denial based on relatedness was provided to Memorial before this request for MFDR was filed. Therefore, the DWC will not consider this argument in the current dispute review.

2. Per the explanation of benefits, dated April 16, 2020, the insurance carrier reduced the billed amount for Meloxicam to a total payment of \$241.65, citing the workers' compensation fee schedule as its reason for the reduction.

The insurance carrier shall reimburse the lesser of

- the fee established by the DWC's applicable formula based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed; or
- the amount billed to the insurance carrier.²

Memorial has the burden to support its requested amount. In its original position statement, Memorial did not explain how it calculated the requested amount.

After notification by the DWC's medical fee dispute resolution program of the insurance carrier's response and payment, Memorial did not take the opportunity to refute the insurance carrier's payment calculation.

For that reason, the DWC moves to resolve the dispute of this drug with the information available and concludes that no additional reimbursement can be recommended.

3. Per the explanation of benefits, dated April 16, 2020, the insurance carrier denied payment for Omeprazole based on "non-covered personal comfort or convenience services."

The DWC found no evidence that this drug is not covered under the Texas Workers' Compensation formulary. Therefore, the DWC finds that Memorial is entitled to reimbursement for this drug.

The reimbursement considered in this dispute is calculated as follows³:

- Omeprazole DR 20 mg capsules: $(3.37338 \times 60 \times 1.25) + \$4.00 = \$257.00$

The total allowable reimbursement is \$257.00. 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 \$257.00.

¹ 28 TAC §133.307 (d)(2)(F)

² 28 TAC §134.503 (c)

³ 28 TAC §134.503 (c)

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 \$257.00, 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

April 30, 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.