



# 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**

M4-20-2455-01

**Carrier's Austin Representative**

Box Number 15

**MFDR Date Received**

June 8, 2020

### REQUESTOR'S POSITION SUMMARY

"Bill for date of service **01/09/2020** was processed and paid incorrectly ... After reviewing the explanation of benefits it indicates that the carrier paid **\$0.00** and not the full amount of **\$507.52**."

**Amount in Dispute:** \$507.52

### RESPONDENT'S POSITION SUMMARY

"Respondent has disputed the bill in dispute as the medication was for personal conveniences and not for conditions related to the compensable injury."

**Response Submitted by:** Downs-Stanford, P.C.

### SUMMARY OF FINDINGS

| Dates of Service | Disputed Services | Amount In Dispute | Amount Due |
|------------------|-------------------|-------------------|------------|
| January 9, 2020  | Meloxicam         | \$247.62          | \$241.65   |
| January 9, 2020  | Omeprazole        | \$259.90          | \$257.00   |
|                  | Total             | \$507.52          | \$498.65   |

### 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 §133.240 sets out the procedures for payment or denial of a medical bill.
- 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.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 202 – Non-covered personal comfort or convenience services.
  - HEN1 – Non-covered drug. Personal comfort or convenience services not covered under this claim.

**Issues**

1. Did Indemnity Insurance Company of America raise a new defense in its response?
2. Are Indemnity Insurance Company of America’s reasons for denial of payment supported?
3. Is Memorial Compounding Pharmacy (Memorial) entitled to additional reimbursement?

**Findings**

1. Memorial is seeking reimbursement for drugs dispensed on January 9, 2020. In its position statement, Downs-Stanford, P.C., on behalf of the insurance carrier, argued that “Respondent has disputed the bill in dispute as the medication was for personal conveniences and not for conditions 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.<sup>1</sup>

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. The insurance carrier denied payment as “non-covered personal comfort or convenience services.” Memorial argued that the injured employee “received medication as prescribed by referral provider.” No evidence was provided to support that the drugs in question were for “personal comfort or convenience.” The DWC finds that the insurance carrier’s denial for this reason is not supported.
3. Because Indemnity Insurance Company of America 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>2</sup>:

- Meloxicam 7.5 mg tablets:  $(3.1687 \times 60 \times 1.25) + \$4.00 = \$241.65$
- Omeprazole DR 20 mg capsules:  $(3.37338 \times 60 \times 1.25) + \$4.00 = \$257.00$

The total allowable reimbursement is \$498.65. 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 \$498.65.

***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 \$498.65, 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

August 21, 2020  
\_\_\_\_\_  
Date

<sup>1</sup> 28 TAC §133.307 (d)(2)(F)

<sup>2</sup> 28 TAC §134.503 (c)

### ***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.**