



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

EZ SCRIPTS LLC

Respondent Name

TEXAS MUTUAL INSURANCE CO

MFDR Tracking Number

M4-21-0036-01

Carrier's Austin Representative

Box Number 54

MFDR Date Received

September 9, 2020

REQUESTOR'S POSITION SUMMARY

"We are not contracted with Optum, Tmesys, or Cypress Care but we were paid at the in-network rate ... The other portion of this dispute was filed because Texas Mutual has refused payment for Diclofenac Sodium DR 75 MG. Our bills were denied for absence of preauthorization. We think they are grouping the diclofenac sodium 75 DR (delayed release) in with the diclofenac sodium ER (extended release)."

Amount in Dispute: \$990.00

RESPONDENT'S POSITION SUMMARY

"Upon review of the explanation of benefits ... the bill and payment was made in accordance to Cypress Care Contract ... Texas Mutual does not access information regarding contracts as that is proprietary information, therefore the carrier cannot address the dispute. Should the Network provide the facility with additional information regarding network status for the carrier and/or update their records Texas Mutual bills will continue to process with the appropriate contract reduction for the facilities Tax Identification Number."

Response Submitted by: TEXAS MUTUAL INSURANCE CO

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 9, 2019 – September 4, 2019	Tramadol HCl 50 mg Tablets (69543-0136-11)	\$183.44	\$0.00
September 17, 2019 September 30, 2019 October 11, 2019 October 24, 2019 November 7, 2019	Tramadol HCl 50 mg Tablets (69543-0136-11)	\$316.60	316.60
January 24, 2020	Diclofenac Sodium DR 75 mg Tablets (16571-0201-11)	\$137.04	\$137.04
February 20, 2020 March 18, 2020 June 8, 2020 July 6, 2020	Diclofenac Sodium DR 75 mg Tablets (61442-0103-10)	\$352.92	\$352.92
Total		\$990.00	\$806.56

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 Codes §§134.530 and 134.540 set out the preauthorization requirements for pharmaceutical services.
4. Texas Labor Code §408.0281 sets out the requirements for informal networks for pharmaceutical services.
5. Texas Insurance Code, Chapter 1305 sets out the requirements for certified healthcare networks.
6. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
For Tramadol:
 - CAC-P12 – Workers' compensation jurisdictional fee schedule adjustment.
 - CAC-131 – Claim specific negotiated discount
 - G01 – This item is reimbursed as a generic drug.
 - CAC-18 – Exact duplicate claim/service
 - CAC-193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
 - PC4 – Payment reduced to Cypress Care contract rate.
 - 790 – This charge was reimbursed in accordance to the Texas Medical Fee Guideline.
 - 878 – Appeal (requestion for reconsideration) previously processed. Refer to Rule 133.250(h).
 - 891 – No additional payment after reconsideration.For Diclofenac Sodium:
 - A11 – N drug denial. Preauthorization required for "N" drugs in ODG Appendix A per rule 134.503 & 134.504.
 - CAC-197 – Precertification/authorization/notification absent.
 - CAC-193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
 - 891 – No additional payment after reconsideration.

Issues

1. Did EZ Scripts forfeit the right to medical fee dispute resolution for August 9, 2019, through September 4, 2019?
2. Is the payment of Tramadol subject to network reduction?
3. Is Texas Mutual Insurance Company's denial of payment for Diclofenac Sodium based on preauthorization supported?
4. Is EZ Scripts entitled to additional reimbursement for the drugs in question?

Findings

1. EZ Scripts is seeking reimbursement, in part for drugs dispensed from August 9, 2019, through September 4, 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.

¹ 28 TAC §133.307 (c)(1)

The DWC received the medical fee dispute resolution request on September 9, 2020. This is more than one year after dates of service August 9, 2019, through September 4, 2019. The DWC found no evidence to support that final adjudication of an exception applied to this date of service.

The DWC finds that EZ Scripts has waived the right to medical fee dispute resolution for dates of service August 9, 2019, through September 4, 2019.

2. EZ Scripts is seeking additional reimbursement, in part, for Tramadol HCl 50 mg tablets dispensed September 17, 2019, through November 7, 2019. Documentation submitted by the requestor indicates that the insurance carrier reduced payments to a total of \$13.70 based on a contract amount.

Prescription medication may not directly or indirectly be delivered through a workers' compensation health care network.² No evidence of an informal network³ between the pharmacy and the insurance carrier or their agents was provided. Therefore, the DWC concludes that payment of the drug in question is not subject to network reduction.

3. EZ Scripts is also seeking reimbursement for Diclofenac Sodium DR 75 mg tablets dispensed January 24, 2020, through July 6, 2020.

Submitted documentation indicates that the insurance carrier denied payment of the requested Diclofenac Sodium DR 75 mg tablets based on preauthorization. Preauthorization is only required for:

- drugs identified with a status of "N" in the current edition of the ODG Appendix A⁴;
- any compound prescribed before July 1, 2018 that contains a drug identified with a status of "N" in the current edition of the ODG Appendix A;
- any prescription drug created through compounding prescribed and dispensed on or after July 1, 2018; and
- any investigational or experimental drug.⁵

The DWC finds that **Diclofenac Sodium DR** is not identified with a status of "N" in the applicable edition of the ODG, *Appendix A*. Therefore, this drug does not require preauthorization for this reason.⁶

The submitted documentation does not support that the disputed drug is a compound. Therefore, this drug does not require preauthorization for this reason.⁷

The submitted documentation does not support that the disputed drug is experimental or investigational. Therefore, this drug does not require preauthorization for this reason.⁸

The DWC concludes that the insurance carrier's denial of payment of the disputed drug based on preauthorization is not supported.

4. Because Texas Mutual Insurance Company failed to support its denial reason for the service in this dispute, the DWC finds that EZ Scripts is entitled to reimbursement.

The reimbursement considered in this dispute is calculated as follows⁹:

- Tramadol HCl 50 mg tablets (NDC 69543-0136-11): $(0.83289 \times 60 \times 1.25) + \$4.00 = \$66.47$ for each date of service. Texas Mutual Insurance Company paid \$2.74 for each date of service. The total allowable for this drug is \$332.35. The total reimbursed was \$13.70. The remaining balance is \$318.65. EZ Scripts is seeking \$316.60. This amount is recommended.

² TIC §1305.101 (c)

³ TLC §408.0281

⁴ *ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary*

⁵ 28 TAC §134.530(b)(1) and §134.540(b)

⁶ 28 TAC §134.530(b)(1)(A) and §134.540(b)(1)

⁷ 28 TAC §134.530(b)(1)(B) and (C), and §134.540(b)(2) and (3)

⁸ 28 TAC §134.530(b)(1)(D) and §134.540(b)(4)

⁹ 28 TAC §134.503 (c)

- Diclofenac Sodium DR 75 mg tablets (NDC 16571-0201-11): $(1.77389 \times 60 \times 1.25) + \$4.00 = \$137.04$. This amount is recommended.
- Diclofenac Sodium DR 75 mg tablets (NDC 61442-0103-10): $(1.12302 \times 60 \times 1.25) + \$4.00 = 88.23$ for each date of service. The total allowable for this drug is \$352.92. This amount is recommended.

The DWC recommends reimbursement of \$806.56.

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 \$806.56.

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 \$806.56, 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	December 31, 2020 Date
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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.