



# 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**

AMERICAN ZURICH INSURANCE CO

**MFDR Tracking Number**

M4-21-0066-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

September 14, 2020

#### REQUESTOR'S POSITION SUMMARY

"We sent bills to Texas Mutual that were then processed and paid by Optum/Tmesys. We are not contracted with Optum, Tmesys, or Cypress Care but we were paid at the in-network rate. No contract was ever signed by EZ Scripts."

**Amount in Dispute:** \$1,038.30

#### RESPONDENT'S POSITION SUMMARY

"Requestor's undated letter attached to its DWC-60, states the bills in question were first sent to Texas Mutual [Insurance Company], which were processed by TMESYS on behalf of Texas Mutual and paid according to the two e-remittances and checks dated October 3, 2019 and December 4, 2019 ... the Requestor's issues with whether they have a contract with Texas Mutual's PBM have no bearing on this request directed to American Zurich Insurance Company ...

This request is now addressed to American Zurich Insurance Company, as are the bills attached to the DWC-60, but the 'original bills' addressed to Texas Mutual are not attached ... The EOBs attached to the DWC-60 reflect American Zurich first received the bills on January 27, 2020, more than 95 days after all the dates of service (7-19-2020 through 10-10-2020) ...

The Carrier's initial EOB, noting the same bills had already been sent and paid by another carrier, denied the bills for that reason. The Carrier does not have record the Requestor submitted the subject bills to American Zurich Insurance Company for Reconsideration under Rule 133.250."

**Response Submitted by:** Flahive, Ogden & Latson

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 19, 2019 – September 3, 2019	Pharmacy Services	\$601.32	\$0.00
September 20, 2019	Naproxen 500 mg - NDC 65162-0190-50	\$57.91	\$57.65
September 20, 2019	Cyclobenzaprine HCl 10 mg - NDC 43547-0400-11	\$29.07	\$28.96
September 27, 2019	Diclofenac Sodium 1% - NDC 65162-0833-66	\$73.00	\$0.00
October 1, 2019	Sertraline HCl 50 mg - NDC 65862-0012-05	\$111.00	\$107.83

October 8, 2019	Naproxen 500 mg - NDC 65162-0190-50	\$61.60	\$0.00
October 8, 2019	Cyclobenzaprine HCl 10 mg - NDC 43547-0400-11	\$31.40	\$0.00
October 10, 2019	Diclofenac Sodium 1% - NDC 65162-0833-66	\$73.00	\$48.60
	Total	\$1,038.30	\$243.04

### ***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 §133.240 sets out the procedures for payment or denial of a medical bill.
2. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
3. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - RC N3 – A reduction was made because a different provider has billed for the exact services on a previous bill.
  - SNVD – Bill contains invalid NDC/CPT/HCPCS code(s).

#### **Issues**

1. Did EZ Scripts, LLC forfeit the right to medical fee dispute resolution for the dates of service July 19, 2019, through September 3, 2019?
2. Is the insurance carrier's denial of payment based on previous billing by another provider supported?
3. Is the insurance carrier's denial of payment based on invalid coding supported?
4. Is the insurance carrier's argument based on timely filing supported?
5. Is the insurance company's argument based on payment by another insurance carrier supported?
6. Is EZ Scripts, LLC entitled to additional reimbursement?

#### **Findings**

1. EZ Scripts, LLC is seeking additional reimbursement for drugs dispensed from July 19, 2019, through October 10, 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.<sup>1</sup> 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 September 14, 2020. This is more than one year after dates of service July 19, 2019, through September 3, 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, LLC has waived the right to medical fee dispute resolution for these dates of service.

2. Optum, on behalf of American Zurich Insurance Company, denied the disputed drugs, in part, stating, "A reduction was made because a different provider has billed for the exact services on a previous bill." No evidence was presented that another pharmacy or health care provider billed for the drugs considered in this dispute. The DWC finds that this denial reason is not supported.
3. Optum also denied the disputed drugs indicating that the bill contained invalid NDC codes. The DWC finds that all NDC codes included in this dispute are valid. No evidence was provided to support this denial reason.
4. Flahive, Ogden & Latson argued that "The EOBs attached to the DWC-60 reflect American Zurich first received the bills on January 27, 2020, more than 95 days after all the dates of service." Explanation of

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<sup>1</sup> 28 TAC §133.307 (c)(1)

benefits from Optum, dated February 3, 2020, included with the submitted documentation supports this date of receipt.

Explanation of benefits from Tmesys, dated December 4, 2019, supports that bills for the following dates of service were submitted less than 95 days from the date of service:

- September 20, 2019
- October 1, 2019
- October 10, 2019

Documentation submitted to the DWC supports that Tmesys is an agent of Optum. Therefore, the DWC finds that these dates were submitted timely.

Review of the documentation submitted does not support that a bill for dates of service September 27, 2019, and October 8, 2019, were submitted to the insurance carrier or its agents prior to January 27, 2020. In addition, no evidence was provided that supported that EZ Scripts submitted a request for reconsideration of dates of service September 27, 2019, and October 8, 2019. Therefore, the DWC cannot recommend reimbursement for these two dates of service.

5. Flahive, Ogden & Latson also argued that “the same bills had already been sent and paid by another carrier.” No evidence was presented to the DWC that another insurance carrier paid the bills in question. The DWC finds that this argument is not supported.

6. The DWC finds that EZ Scripts is entitled to reimbursement for the following charges<sup>2</sup>:

Date of Service	Drug	Billed Amount	Maximum Allowable Reimbursement	Paid	Amount Due
September 20, 2019	Naproxen	\$61.60	$(1.14678 \times 1.25 \times 40) + \$4.00 = \$61.34$	\$3.69	\$57.65
September 20, 2019	Cyclobenzaprine	\$31.40	$(1.09149 \times 1.25 \times 20) + \$4.00 = \$31.29$	\$2.33	\$28.96
October 1, 2019	Sertraline	\$111.00	$(2.84830 \times 1.25 \times 30) + \$4.00 = \$110.81$	\$2.98	\$107.83
October 10, 2019	Diclofenac Sodium	\$73.00	$(0.5482 \times 1.25 \times 100) + \$4.00 = \$72.53$	\$23.93	\$48.60
				Total	\$243.04

The total allowed reimbursement for the eligible services in this dispute is \$243.04. This amount is recommended.

**Conclusion**

The outcome of this medical fee dispute relied upon the evidence presented by the requestor and the respondent at the time of adjudication. Though all the evidence may not have been discussed, it was considered. 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 \$243.04.

***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 \$243.04, 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

\_\_\_\_\_  
January 8, 2021  
Date

<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.**