



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645

(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

EZ SCRIPTS LLC

Respondent Name

XL SPECIALTY INSURANCE CO

MFDR Tracking Number

M4-21-0081

Carrier's Austin Representative

Box Number 19

MFDR Date Received

September 16, 2020

REQUESTOR'S POSITION SUMMARY

"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 ... Sedgwick has also refused to pay for out pharmacy bills dated 9/27/19 and 10/9/19. The medication Diclofenac Sodium Transdermal Gel 1% was a & drug at the time of filing and did not require preauthorization."

Amount in Dispute: \$218.53

RESPONDENT'S POSITION SUMMARY

Submitted documentation does not include a position statement from the respondent. Accordingly, this decision is based on the information available at the time of adjudication.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 16, 2019	Diclofenac Sodium 1% Gel	\$66.03	\$48.60
September 27, 2019	Diclofenac Sodium 1% Gel	\$73.00	\$72.53
October 9, 2019	Diclofenac Sodium 1% Gel	\$73.00	\$72.53
Total		\$218.53	\$193.66

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. 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 date of service September 16, 2019:*
 - P12 – Workers’ compensation jurisdictional fee schedule adjustment.
 - 197 – Payment denied/reduced for absence of precertification/authorization.
 - 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
 - 4190 – A pharmacist shall dispense no more than a 90-day supply of a prescription medicine.
 - 1014 – The attached billing has been re-evaluated at the request of the provider. Based on this re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted.
 - For date of service September 27, 2019, and October 9, 2019:*
 - 197 – Payment denied/reduced for absence of precertification/authorization.
 - 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

Issues

1. Did XL Specialty Insurance Company respond to the medical fee dispute?
2. Is payment of the drug in question subject to network reduction?
3. Is the insurance carrier’s denial of payment based on amount of dispense supported?
4. Is the insurance carrier’s denial of payment based on preauthorization supported?
5. Is EZ Scripts entitled to additional reimbursement for the drug in question?

Findings

1. The Austin carrier representative for XL Specialty Insurance Company is Flahive Ogden & Latson. The representative was notified of this medical fee dispute on September 22, 2020. If the DWC does not receive the response within 14 calendar days of the dispute notification, then the DWC may base its decision on the available information.¹

As of today, no response has been received from the insurance carrier or its representative. We will base this decision on the information available.

2. EZ Scripts is seeking additional reimbursement for Diclofenac Sodium 1% Gel dispensed on September 16, 2019. Documentation submitted by the requestor indicates that the insurance carrier reduced payment to \$23.93 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. Per the explanation of benefits dated October 28, 2019, the insurance carrier also reduced payment stating, “A PHARMACIST SHALL DISPENSE NO MORE THAN A 90-DAY SUPPLY OF A PRESCRIPTION MEDICATION.” The bills provided to the DWC indicate that the drug dispensed was for a 15-day supply. No evidence was provided that supported more than a 90-day supply was dispensed for the drug in question.
4. EZ Scripts is also seeking reimbursement for Diclofenac Sodium 1% Gel dispensed on September 27, 2019, and October 9, 2019. Submitted explanations of benefits indicate that all three dates of service in question were subject to preauthorization denial. Preauthorization is only required for:
 - drugs identified with a status of “N” in the current edition of the ODG Appendix A⁴;

¹ 28 TAC §133.307 (d)(1)

² TIC §1305.101 (c)

³ TLC §408.0281

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

- any prescription drug created through compounding prescribed before July 1, 2018 that contains a drug identified with a status of “N” in the current edition of the ODG Appendix A, and any updates;
- 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 the evidence presented by EZ Scripts supports that the drug in this dispute is not identified with a status of “N” in the relevant edition of the ODG Appendix A.

No evidence was presented to support that the drug in question was investigational or experimental. The insurance carrier’s preauthorization denial is therefore not supported.

5. Because Safety National Casualty Company failed to support its denial reason for the service in this dispute, the DWC finds that Injured Workers Pharmacy LLC is entitled to reimbursement.

The reimbursement considered in this dispute is calculated as follows⁶:

- Diclofenac Sodium Gel 1%: $(0.54820 \times 100 \times 1.25) + \$4.00 = \$72.53$

The total allowable reimbursement is \$217.59. Per explanation of benefits dated October 17, 2019, check number 0002292917, the insurance carrier paid \$23.93. An additional \$193.66 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 \$193.66.

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 \$193.66, 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
-----------	--	---------------------------

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.

⁵ 28 Texas Administrative Codes §§134.530 (b)(1) and 134.540 (b)

⁶ 28 TAC §134.503 (c)