



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

GREAT AMERICAN ALLIANCE INSURANCE CO

MFDR Tracking Number

M4-21-0821-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

January 21, 2021

REQUESTOR'S POSITION SUMMARY

"Enclosed are the outstanding pharmacy bills from Mail My Meds LLC d/b/a Public Safety Rx, which were submitted to Great American Insurance Company in a timely manner after each prescription was filled. Great American Insurance Company has effectively refused to pay the enclosed invoices. The bills most recently have denied for 'Lacking information or submission errors'."

Amount in Dispute: \$849.83

RESPONDENT'S POSITION SUMMARY

"Carrier obtained a peer review report from John P. Obermiller, M.D. regarding the medical necessity of ongoing treatment and medications ... In that regard, Dr. Obermiller opined that 'clinical documentation does not support the need for further treatment protocols such as medications as care reasonably required due to the work accident' ... Lidocaine is identified with a status of 'N' in the *ODG Treatment in Workers' Comp (ODG)/Appendix A, ODG Workers' Compensation Drug Formulary*. As a status 'N' medication, preauthorization was required ... Requestor fails to address the medical necessity of the medications prescribed including Cyclobenzaprine, Naproxen, Methylprednisolone and Ibuprofen, nor do they provide any evidence of preauthorization for the Lidocaine EXT. Patch 5%."

Response Submitted by: The Silvera Firm

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
December 17, 2019 – January 7, 2020	Pharmaceutical Services	\$258.23	\$0.00
March 24, 2020	Naproxen 500 mg	\$61.60	\$61.34
March 24, 2020	Cyclobenzaprine HCl 10 mg	\$31.40	\$31.29
October 7, 2020	Ibuprofen Tablets 800 mg	\$64.20	\$64.20
October 7, 2020	Cyclobenzaprine HCl 10 mg	\$45.00	\$44.93
October 7, 2020	Lidocaine Patch 5%	\$389.40	\$389.34
Total		\$849.83	\$591.10

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 §133.210 sets out the requirements for medical documentation.
2. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
3. 28 Texas Administrative Code §133.503 sets out the fee guidelines for pharmaceutical services.
4. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 16 – Claim/service lacks information or has submission/billing error(s).
 - 270 – No allowance has been recommended for this procedure/services/supply. Please see special *Note* below
 - Notes: "No medical notes attached."

Issues

1. Did EZ Scripts, LLC forfeit the right to medical fee dispute resolution for dates of service December 17, 2019 – January 7, 2020?
2. Is the insurance carrier's denial of payment based on lack of documentation for date of service March 24, 2020, supported?
3. Did the insurance carrier take final action on the bill for date of service October 7, 2020, prior to the request for medical fee dispute resolution (MFDR)?
4. Did the insurance carrier raise new defenses in its response?
5. Is EZ Scripts, LLC entitled to reimbursement for the dates in question?

Findings

1. EZ Scripts is seeking reimbursement for prescription medication dispensed on dates of service:
 - December 17, 2019,
 - January 7, 2020,
 - March 24, 2020, and
 - October 7, 2020.

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.

The DWC received the medical fee dispute resolution request on January 21, 2021. This is more than one year after dates of service December 17, 2019, and January 7, 2020. The DWC found no evidence to support that final adjudication of an exception applied to these dates of service.

The DWC finds that EZ Scripts, LLC has waived the right to medical fee dispute resolution for these dates of service.

2. The insurance carrier denied services for date of service March 24, 2020, due to lack of supporting documentation. Documentation is not required to be submitted with the medical bill for the services in dispute.² When an insurance carrier needs more information to process the bill, it must send a request to the health care provider and must:
 - (1) be in writing;
 - (2) be specific to the bill;
 - (3) specifically describe the information to be included in the response;

¹ 28 TAC §133.307 (c)(1)

² 28 TAC §133.210

- (4) be relevant and necessary for the resolution of the bill;
- (5) be for information that the health care provider has;
- (6) indicate the specific reason that the insurance carrier needs the information; and
- (7) include a copy of the bill that the insurance carrier is requesting the additional documentation for.³

The insurance carrier failed to submit evidence that it made an appropriate request for additional documentation with the required specificity. The insurance carrier's denial for this reason is not supported.

3. EZ Scripts, LLC is also seeking reimbursement for medications dispensed on October 7, 2020.

The insurance carrier is required to take final action by paying, reducing, or denying the service in question not later than 45 days after receiving the medical bill. This deadline is not extended by a request for additional information.⁴

The greater weight of evidence presented to the DWC supports that a complete bill for the services in question was received by the insurance carrier or its agent. No evidence was provided to support that the insurance carrier took final action on the bill for the service in question.

4. In its position statement, The Silvera Firm, on behalf of the insurance carrier, argued that EZ Scripts, LLC failed to "provide any evidence of preauthorization for the Lidocaine EXT. Patch 5%."

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.⁵

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

5. Because the insurance carrier failed to support its denial of payment, the DWC finds that EZ Scripts, LLC is entitled to reimbursement for the services in question.

The reimbursement considered in this dispute is calculated as follows⁶:

- Naproxen 500 mg tablets: $(1.14678 \times 40 \times 1.25) + \$4.00 = \$61.34$
- Cyclobenzaprine HCl 10 mg tablets: $(1.09149 \times 20 \times 1.25) + \$4.00 = \$31.29$
- Ibuprofen 800 mg tablets: $(0.8049 \times 60 \times 1.25) + \$4.00 = \$64.37$
EZ Scripts, LLC is seeking \$64.20 for this drug. No additional reimbursement can be recommended.
- Cyclobenzaprine HCl 10 mg tablets: $(1.09149 \times 30 \times 1.25) + \$4.00 = \$44.93$
- Lidocaine Patch 5%: $(10.27567 \times 30 \times 1.25) + \$4.00 = \$389.34$

The total allowable reimbursement is \$591.10. 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 \$591.10.

³ 28 TAC §133.210 (d)

⁴ 28 TAC §133.240 (a)

⁵ 28 TAC §133.307 (d)(2)(F)

⁶ 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 \$591.10, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

_____	_____	March 29, 2021
Signature	Medical Fee Dispute Resolution Officer	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.