



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

OLD REPUBLIC INSURANCE CO

MFDR Tracking Number

M4-21-0845-01

Carrier's Austin Representative

Box Number 44

MFDR Date Received

January 28, 2021

REQUESTOR'S POSITION SUMMARY

"The denials state that the medications, Biofreeze and Cyclobenzaprine, were denied due to a lack of prior authorization. At the time of filling, these medications were approved drugs on the Texas Drug Formulary and did not require prior authorization."

Amount in Dispute: \$188.32

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
May 14, 2020	Cyclobenzaprine HCl 10 mg	\$126.79	\$126.79
May 14, 2020	Biofreeze External Gel 4%	\$20.51	\$17.06
May 27, 2020	Biofreeze External Gel 4%	\$20.51	\$17.06
June 8, 2020	Biofreeze External Gel 4%	\$20.51	\$17.06
Total		\$188.32	\$177.97

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 sets out the closed formulary requirements, effective January 17, 2011, 35 TexReg 11344.

4. The insurance carrier denied payment for the disputed services with the following claim adjustment codes:
 - HE75 – Prior Authorization required to process this bill.

Issues

1. Did Old Republic Insurance Company respond to the medical fee dispute?
2. Is the insurance carrier's denial of payment supported?
3. Is EZ Scripts, LLC entitled to reimbursement for the drugs in question?

Findings

1. The Austin carrier representative for Old Republic Insurance Company is White Espey, PLLC. The representative was notified of this medical fee dispute on February 2, 2021. 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, LLC is seeking reimbursement for Cyclobenzaprine and Biofreeze dispensed May 14 – June 8, 2020.

Submitted documentation indicates that the insurance carrier denied the disputed drugs based on preauthorization. Preauthorization is only required for:

- drugs identified with a status of "N" in the current edition of the ODG Appendix A²;
- 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.³

The DWC finds that the drugs in question are not identified with a status of "N" in the applicable edition of the ODG, *Appendix A*. Therefore, these drugs do not require preauthorization for this reason.⁴

The submitted documentation does not support that the disputed drugs are compounds. Therefore, these drugs do not require preauthorization for this reason.⁵

The submitted documentation does not support that the disputed drugs are experimental or investigational. Therefore, these drugs do not require preauthorization for this reason.⁶

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

3. Because Old Republic Insurance Company failed to support its denial reason for the service in this dispute, the DWC finds that EZ Scripts, LLC is entitled to reimbursement.

The reimbursement considered in this dispute is calculated as follows⁷:

- Cyclobenzaprine HCl 10 mg tablets: $(1.09149 \times 90 \times 1.25) + \$4.00 = \$126.79$
- Biofreeze External Gel 4%: $(0.13461 \times 89 \times 1.25) + \$4.00 = \$17.06 \times 3 \text{ dates of service} = \51.18

The total allowable reimbursement is \$177.97. This amount is recommended.

¹ 28 TAC §133.307(d)(1)

² *ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary*

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

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

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

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

⁷ 28 TAC §134.503 (c)

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 \$177.97.

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 \$177.97, 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	May 4, 2021 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.