



# 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**

Memorial Compounding Pharmacy

**Respondent Name**

Fedex Ground Package System Inc

**MFDR Tracking Number**

M4-21-1709-01

**Carriers' Austin Representative**

Box Number 19

**MFDR Date Received**

May 27, 2021

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "The carrier has received the attached bill and has not processed according to Texas Labor Code 408.027."

**Amount in Dispute:** \$268.41

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** The Austin carrier representative for Fedex Ground Package System Inc is Flahive Ogden & Latson who was notified of this medical fee dispute on June 2, 2021. Rule §133.307(d)(1) states that if the division does not receive the response within 14 calendar days of the dispute notification, then the division may base its decision on the available information.

As of today, no response has been received from the carrier or its representative. This decision is based on the information available as authorized under §133.307(d)(1).

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
February 26, 2021	Pharmacy services	\$268.40	\$122.83

### 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.

#### **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 requirements of prior authorization.

## Issues

1. What rule(s) apply to disputed services?
2. How is reimbursement determined?

## Findings

1. The requestor is seeking reimbursement for medication dispensed in February 2021. The insurance carrier provided insufficient evidence to support adjudication of the disputed medical claim. The services in dispute will be reviewed per applicable fee guideline.

DWC Rule 28 TAC §134.530 (b) states in pertinent part preauthorization is required for drugs identified with a status of “N” in the current edition of the ODG Treatment in Workers’ Comp (ODG) / Appendix A.

Review of Appendix A and the submitted medical bill found “Diclofenac Sodium” is listed as a “N” drug.

Drug Class	Generic Name	Brand Name	Gener Equiv	Status
NSAIDs	Diclofenac sodium	Dyloject	No	N
NSAIDs	Diclofenac sodium	Voltaren ®	Yes	Y
NSAIDs	Diclofenac sodium ER	Voltaren-XR ®	Yes	N
NSAIDs	Diclofenac sodium topical	Pennsaid ®	Yes	N

Insufficient evidence was found to determine whether the medication dispensed required prior authorization and authorization was received or that the medication dispensed is not a “N” drug and no authorization was required. This medication will not be reviewed in this dispute.

2. DWC Rule 28 TAC §134.503 (c) states the insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:
  - Generic drugs:  $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \$4.00$  dispensing fee per prescription = reimbursement amount;

Drug	NDC	Generic(G) /Brand(B)	Price /Unit	Units Billed	AWP Formula	Billed Amt	Lesser of AWP and Billed
Meloxicam	29300012410	G	\$3.16	30	\$122.83	\$152.56	\$122.83

The total reimbursement is \$122.83. This amount is recommended.

## Conclusion

The outcome of each independent medical fee dispute relies upon the relevant evidence presented by the requestor and the respondent at the time of adjudication. Though all the evidence in this dispute may not have been discussed, it was considered.

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$122.83.

**ORDER**

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$122.83, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

**Authorized Signature**

_____	_____	July 19, 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 division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the division 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.**