

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Anthony Esquibel
(Duramed)

Respondent Name

Mitsui Sumitomo Insurance Co of America

MFDR Tracking Number

M4-22-0002-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

September 1, 2021

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
March 11, 2021	L0642	\$396.51	\$396.51
Total		\$396.51	\$396.51

Requestor's Position

...Per TWCC rule 134.600 (P)(9) durable medical equipment requires preauthorization only when a single item EXCEEDS \$500.

Amount in Dispute: \$396.51

Respondent's Position

The Austin carrier representative for Mitsui Sumitomo Insurance Co of America is Flahive, Ogden & Latson. The representative was notified of this medical fee dispute on September 8, 2021.

Per 28 Texas Administrative Code §133.307(d)(1), 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.

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

Findings and Decision

Authority

This medical fee dispute is decided according to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

Statutes and Rules

1. 28 TAC §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 TAC §134.600 sets out the requirements of prior authorization.
3. 28 TAC §19.2003 (28) defines retrospective review.
4. 28 TAC §137.100 (e) sets out the appropriate administrative process for the carrier to retrospectively review reasonableness and medical necessity of care already provided.
5. 28 TAC §134.203 sets out the fee guidelines for DMEPOS claims.

Denial Reasons

The insurance carrier denied the payment for the disputed services with the following claim adjustment codes:

- 197 – Payment adjusted for absence of precert/preauth
- ODG – Services exceed ODG guidelines;preauth is required
- W3 – Appeal/reconsideration

Issues

1. Did the carrier follow the appropriate administrative process to address the assertions made on the explanation of benefits?
2. Is the insurance carrier's denial based on lack of prior authorization supported?
3. Is the requestor entitled to additional reimbursement?

Findings

1. The requestor is seeking reimbursement of DMEPOS item. The insurance carrier denied the payment of Code L0642 and states in the bill comments on the explanation of benefits, "Per ODG: Not recommended for prevention. There is strong and consistent evidence that lumbar supports were not effective in preventing neck and back pain. Additionally, per ODG. Recommended as an option for compression fractures and specific treatment of spondylolisthesis, documented instability – none of which is documented in the patient record." The division notes that 28 TAC §137.100 (e) sets out the appropriate administrative process for the carrier to retrospectively review reasonableness and medical necessity of care already provided. Section (e) states:

“An insurance carrier may retrospectively review, and if appropriate, deny payment for treatments and services not preauthorized under subsection (d) of this section when the insurance carrier asserts that health care provided within the Division treatment guidelines is not reasonably required. The assertion must be supported by documentation of evidence-based medicine that outweighs the presumption of reasonableness established by Labor Code §413.017.”

Retrospective review is defined in 28 TAC §19.2003 (28) as “The process of reviewing health care which has been provided to the injured employee under the Texas Workers’ Compensation Act to determine if the health care was medically reasonable and necessary.”

DWC Rule 28 TAC §19.2015(b) titled Retrospective Review of Medical Necessity states: (b) When retrospective review results in an adverse determination or denial of payment, the utilization review agent shall notify the health care providers of the opportunity to appeal the determination through the appeal process as outlined in Chapter 133, Subchapter D of this title (relating to Dispute and Audit of Bills by Insurance Carriers).”

The division finds that the carrier failed to follow the appropriate administrative process to address the assertions made in its response to this medical fee dispute.

2. The insurance carrier denied the DMEPOS item based on lack of prior authorization. DWC Rule 28 TAC 134.600 (p) (9) states in pertinent part prior authorization is required for all durable medical equipment (DME) in excess of \$500 billed charges per item (either purchase or expected cumulative rental).

The amount billed was \$396.51. The insurance carrier’s denial is not supported. The disputed item will be reviewed per applicable fee guideline.

3. DWC Rule 28 TAC 134.203 (d) states in pertinent part the MAR for Level II codes A, E, J, K, and L shall be determined as 125 percent of the fee listed for the code in the Medicare Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) fee schedule.

The fee listed for L0642 in the DMEPOS fee schedule is \$317.21. This amount multiplied by 125 per cent is \$396.51. This amount is recommended.

Conclusion

The outcome of this medical fee dispute is based on the evidence presented by the requestor and the respondent at the time of adjudication. Though all evidence may not have been discussed, it was considered.

DWC finds the requestor has established that additional reimbursement is due.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to additional reimbursement for the disputed services. It is ordered that Mitsui Sumitomo Insurance Co of America must remit to Duramed \$396.51 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

November 17, 2021

Date

Your Right to Appeal

Either party to this medical fee dispute has a right to seek review of this decision under 28 TAC §133.307, which applies to disputes filed on or after **June 1, 2012**.

A party seeking review must submit DWC Form-045M, *Request to Schedule, Reschedule, or Cancel a Benefit Review Conference to Appeal a Medical Fee Dispute Decision (BRC-MFD)* and follow the instructions on the form. You can find the form at www.tdi.texas.gov/forms/form20numeric.html. DWC must receive the request within **20 days** of when you receive this decision. You may fax, mail, or personally deliver your request to DWC using the contact information on the form or the field office handling the claim. If you have questions about DWC Form-045M, please call CompConnection at 1-800-252-7031, option 3 or email CompConnection@tdi.texas.gov.

The party seeking review of the MFDR decision must deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with DWC. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** with any other required information listed in 28 TAC §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 1-800-252-7031, opción 3 o correo electrónico CompConnection@tdi.texas.gov.