

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Injured Workers Pharmacy, Inc.

Respondent Name

Arch Indemnity Insurance Co.

MFDR Tracking Number

M4-22-0705-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

December 14, 2021

Summary of Findings

| Dates of Service | Disputed Services | Amount in Dispute | Amount Due |
|-------------------|--|-------------------|-------------|
| February 25, 2021 | Diclofenac Sodium Gel 3% NDC: 45802011101 | \$282.93 | \$282.93 |
| March 24, 2021 | Diclofenac Sodium Gel 3% NDC: 00115148361 | \$4,250.05 | \$4,250.05 |
| April 22, 2021 | Diclofenac Sodium Gel 3% NDC: 0115148361 | \$5,665.40 | \$5,665.40 |
| May 20, 2021 | Diclofenac Sodium Gel 3% NDC: 0115148361 | \$5,665.40 | \$5,665.40 |
| June 17, 2021 | Diclofenac Sodium Gel 3% NDC: 0115148361 | \$5,665.40 | \$5,665.40 |
| July 14, 2021 | Diclofenac Sodium Gel 3% NDC: 0115148361 | \$5,665.40 | \$5,665.40 |
| Total | | \$27,194.68 | \$27,194.58 |

Requestor's Position

The carrier denied the bills, stating the medication requires authorization prior to shipping. An appeal was submitted with proof that the medication DICLOFENAC SODIUM 3% GEL (VOLTAREN GEL) is a Y status drug per the Texas Formulary, so it does not require authorization prior to shipping.

Amount in Dispute: \$27,194.68

Respondent's Position

This prescription is at the very least investigation or experimental for the prescribed use. It also constitutes a compound of Diclofenac sodium and a gel medium. Either status requires preauthorization ...

Response Submitted by: Flahive, Ogden & Latson

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 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 TAC §§134.530 and 134.540 sets out the preauthorization requirements for pharmaceutical services.
3. 28 TAC §134.503 sets out the fee guidelines for pharmaceutical services.

Denial Reasons

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

- 197 – Payment denied/reduced for absence of precertification/authorization.
- 5725 – First Script has denied the line for Utilization.
- B13 – Previously paid. Payment for this claim/service may have been provided in a previous payment.
- 247 – A payment or denial has already been recommended for this service.
- 90950 – This bill is a reconsideration of a previously reviewed bill, allowance amounts reflect any changes to the previous payment.
- 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- 29 – The time limit for filing has expired.
- 4271 – Per TX Labor Code Sec. 408.027, providers must submit bills to payors within 95 days of the date of service.
- 5283 – Additional allowance is not recommended as this bill was reviewed in accordance with state guidelines, usual and customary policies, provider's contract, or car

Issues

1. Is Arch Indemnity Insurance Co.'s denial based on timely filing supported?
2. Is Arch Indemnity Insurance Co.'s denial based on preauthorization supported?
3. Is Injured Workers Pharmacy, Inc. entitled to additional reimbursement?

Findings

1. Injured Workers Pharmacy, Inc. is seeking reimbursement for drugs dispensed on dates of service that include February 25, 2021, and March 24, 2021. On explanations of benefits dated August 22, 2021, and September 1, 2021, the insurance company denied payment, in part, based on timely filing.

The health care provider is required by 28 TAC §133.20 (b) to submit a medical bill within 95 days from the date of service.

In its request for medical fee dispute resolution, Injured Workers Pharmacy, Inc. included explanations of benefits dated March 22, 2021, and April 22, 2021, for the dates of service in question. These dates are less than 95 days from the dates of service.

DWC finds that this denial reason is not supported.

2. Arch Indemnity Insurance Co. also denied all disputed dates of service based on lack of preauthorization. Per 28 TAC §134.530 (b)(1) and §134.540 (b), preauthorization is only required for:
 - drugs identified with a status of "N" in the current edition of the ODG Appendix A;
 - 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.

The DWC finds that the drug in question is not identified with a status of "N" in the applicable edition of the ODG, Appendix A. Therefore, this drug does not require preauthorization for this reason.

The submitted documentation does not support that the disputed drug is a compound. Therefore, this drug does not require preauthorization for this reason.

The submitted documentation does not support that the disputed drug is experimental or investigational. Therefore, this drug does not require preauthorization for this reason.

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

3. Because Arch Indemnity Insurance Co. failed to support its denial reason for the service in this dispute, DWC finds that Injured Workers Pharmacy, Inc. is entitled to reimbursement.

The reimbursement considered in this dispute is calculated as laid out in 28 TAC §134.503 (c):

- Diclofenac Sodium Gel 3% (NDC 45802011101):
 $(1.11570 \times 200 \times 1.25) + \$4.00 = \$282.93 \times 1 \text{ DOS} = \mathbf{\$282.93}$
- Diclofenac Sodium Gel 3% (NDC 00115148361):
 $(11.32280 \times 300 \times 1.25) + \$4.00 = \$4,250.05 \times 1 \text{ DOS} = \mathbf{\$4,250.05}$
- Diclofenac Sodium Gel 3% (NDC 00115148361):
 $(11.32280 \times 400 \times 1.25) + \$4.00 = \$5,665.40 \times 4 \text{ DOS} = \mathbf{\$22,661.60}$

The total allowable reimbursement is \$27,194.58. 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 requester has established that additional reimbursement of \$27,194.58 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 Arch Indemnity Insurance Co. must remit to Injured Workers Pharmacy, Inc. \$27,194.58 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

January 31, 2022

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.