



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

MEMORIAL COMPOUNDING RX

Respondent Name

AMERICAN ZURICH INSURANCE COMPANY

MFDR Tracking Number

M4-22-1047-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

February 2, 2022

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
November 2, 2021	Prescribed Medication	\$269.63	\$201.29
Total		\$269.63	\$201.29

Requestor's Position

"The request was submitted and received by the carrier on 12/10/2021 Via fax Confirmation still with no response. I have attached proof of submission for both correspondences. The carrier has received the attached bill and has not processed according to Texas Labor Code 408.027."

Amount in Dispute: \$269.63

Respondent's Position

"The Carrier has denied liability for medical treatment related to... The Relatedness Dispute was resolved by the October 18, 2021 Findings and Decision which concluded the compensable injury does not extend to those disputed conditions/injuries. The Appeals Panel affirmed that Decision and Order."

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).

Background

1. 28 Texas Administrative Code (TAC) §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 TAC §134.503 sets out the fee guidelines for pharmaceutical services.

Denial Reasons

Neither party submitted an explanation of benefits for the services in dispute.

Issues

1. Did the insurance carrier raise a new issue after the filing of the DWC060?
2. Did the insurance carrier audit the medical bills prior to the filing of this fee dispute?
3. Is the requestor entitled to reimbursement?

Findings

1. Memorial is seeking reimbursement for drugs dispensed on November 2, 2021. In its position statement, Flahive, Ogden & Latson, on behalf of the insurance carrier, argued that "The Relatedness Dispute was resolved by the October 18, 2021 Findings and Decision which concluded the compensable injury does not extend to those disputed conditions/injuries."

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.

The submitted documentation does not support that a denial based on relatedness was provided to Memorial before this request for MFDR was filed. In addition, the insurance carrier did not submit a copy of the CCH Decision or Appeals Panel Decision to support their position. Therefore, the DWC will not consider this argument in the current dispute review.

2. Neither party submitted copies of EOBs for consideration in this dispute. It is the duty of the workers' compensation insurance carrier **or an agent acting on the carrier's behalf** to pay, reduce, or deny a complete medical bill within 45 days from the date of receipt. A carrier's 45-day deadline to make or deny payment is **not extended** as a result of an audit under 28 TAC §133.230, or as a result of a pending request for additional documentation. Further, the insurance carrier **shall** notify the health care provider of its final action by issuing an explanation of benefits (EOB) and shall include on its EOB any bill reductions, denial reasons, and defenses in the form and manner required by 28 TAC §133.240.

Under 28 TAC §133.307, the DWC only reviews those denial reasons and defenses presented by the carrier to the health care provider prior to the date the request for MFDR was filed. Any denial reasons or defenses raised by the carrier after the filing of the dispute are not considered in the review of the medical fee dispute.

The DWC finds that the requestor, MEMORIAL COMPOUNDING RX, presented sufficient documentation to support that it requested payment from the insurance carrier for medications provided to a covered injured employee. The insurance carrier did not pay, reduce, or deny the complete medical bill in 45 days. Due to insurance carrier’s failure to take final action and timely issue an EOB, the provider then asked for reconsideration and requested an EOB as required. The insurance carrier did not respond to the request for reconsideration. The provider then filed for medical fee dispute resolution (MFDR).

No evidence was presented by the insurance carrier or its agent to support that it responded to the complete medical bill within 45 days; nor did the insurance carrier or its agent present any evidence to support that it responded to the request for reconsideration and request for an EOB. The insurance carrier, therefore failed to present any denial reasons or defenses to the provider before the filing of this medical fee dispute.

The insurance carrier failed to present any defenses that conform with the requirements of 28 TAC §133.240 and 133.250 discussed above. Absent any evidence that insurance carrier or an agent acting on behalf of the insurance carrier timely presented any defenses to the provider that conform with the requirements of Title 28, Part 2, Chapter 133, Subchapter C, the DWC finds that the medications are eligible for reimbursement.

- 3. Rule 28 TAC §134.503 applies to the reimbursement for medications. The medications in dispute are listed on the bill separately.

The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:

(1) 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:

(A) Generic drugs: $(AWP \text{ per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount.

The calculation of the total allowable amount is as follows:

Drug	NDC	Generic(G) /Brand(B)	Price/ Unit	Units Billed	AWP Formula	Billed Amount	Lesser of AWP and Billed
CYCLOBENZAPRINE 5 MG TABLET	52817033050	G	\$1.64050	60	\$127.04	\$155.93	\$127.04
ACETAMINOPHEN/COD #4 TABLETMCK	00406048505	G	\$0.93670	60	\$74.25	\$113.70	\$74.25
Total						\$269.63	\$201.29

The total reimbursement is therefore \$201.29. This amount is recommended.

Conclusion

The outcome of each independent medical fee dispute relies on the relevant evidence the requester and respondent present at the time of adjudication. Although all the evidence in this dispute may not have been discussed, it was considered.

The DWC finds the requester has established that reimbursement is due. As a result, the amount ordered is \$201.29.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requester is entitled to additional reimbursement for the disputed services. It is ordered that the Respondent must remit to the Requester \$201.29 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

_____	_____	March 8, 2022
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 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 512-804-4812.