

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Injured Workers Pharmacy
LLC

Respondent Name

Zurich American Insurance Co

MFDR Tracking Number

M4-22-2183-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

June 6, 2022

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
May 28, 2021	27241009990	\$298.44	\$0.00
June 28, 2021	27241009990	\$298.44	\$298.44
September 20, 2021	27241009990	\$298.44	\$298.44
October 20, 2021	27241009990	\$298.44	\$298.44
November 18, 2021	27241009990	\$298.44	\$298.44
December 18, 2021	27241009990	\$298.44	\$298.44
January 18, 2022	27241009990	\$298.44	\$298.44
February 11, 2022	27241009990	\$298.44	\$298.44
March 14, 2022	27241009990	\$298.44	\$298.44
April 18, 2022	27241009990	\$298.44	\$298.44
May 12, 2022	52817033200	\$44.93	\$44.93
May 12, 2022	27241009990	\$298.44	\$298.44
May 12, 2022	57237001899	\$298.44	\$0.00
		\$3,626.21	\$3,029.33

Requestor's Position

"The assigned adjuster was unable to provide EOB and stated they are disputing all medical treatment after 5/6/2022 per extent of injury and confirmed the medication is payable before that date, however, refused to process the outstanding to overturn denial."

Amount in Dispute: \$3,626.21

Respondent's Position

The Austin carrier representative for Zurich American Insurance Co is Flahive, Ogden and Latson. The representative was notified of this medical fee dispute on June 13, 2022.

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 §134.503 sets out the fee guidelines for pharmacy services.

Denial Reasons

Neither party submitted an explanation of benefits to support adjudication of the services in dispute.

Issues

1. Are all dates of service eligible for MFDR?
2. What rule(s) apply to disputed services?

Findings

1. The requestor is seeking reimbursement for oral medication dispensed with dates of service from May 28, 2021, through May 12, 2022. Date of service May 28, 2021. DWC Rule 28 TAC §133.307(c)(1) states:
"Timeliness. A requestor shall timely file with the Division's MDR Section or waive the right to MDR. The Division shall deem a request to be filed on the date the MDR Section receives the request.
(A) A request for medical fee dispute resolution that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute.
(B) A request may be filed later than one year after the date(s) of service if:

(i) a related compensability, extent of injury, or liability dispute under Labor Code Chapter 410 has been filed, the medical fee dispute shall be filed not later than 60 days after the date the requestor receives the final decision, inclusive of all appeals, on compensability, extent of injury, or liability;

(ii) a medical dispute regarding medical necessity has been filed, the medical fee dispute must be filed not later than 60 days after the date the requestor received the final decision on medical necessity, inclusive of all appeals, related to the health care in dispute and for which the insurance carrier previously denied payment based on medical necessity; or

(iii) the dispute relates to a refund notice issued pursuant to a division audit or review, the medical fee dispute must be filed not later than 60 days after the date of the receipt of a refund notice.

The date of the service in dispute is May 28, 2021. The request for medical dispute resolution was received in the Medical Dispute Resolution (MDR) section on June 6, 2022. This date of service is not eligible for MFDR as the submitted documentation does not support any exception as described above.

The requestor listed date of service May 12, 2022, for the medication Duloxetine under two different NDC numbers (27241009990 and 57237001899). The only claim for Duloxetine supported by medical bill was for NDC 27241009990. This medical bill will be considered based on applicable fee guideline as well as dates of service June 28, 2021 through May 12, 2022.

2. The insurance carrier provided insufficient evidence to support adjudication of the claims in dispute. These service will be reviewed per applicable fee guideline found in DWC Rule 28 Texas Administrative Code §134.503 (c)(1)(A)(B) which states in pertinent part (c) 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: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount;

(B) Brand name drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \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
Duloxetine	27241009990	G	7.85	30	\$298.44	\$298.44	\$298.44
Duloxetine	27241009990	G	7.85	30	\$298.44	\$298.44	\$298.44
Duloxetine	27241009990	G	7.85	30	\$298.44	\$298.44	\$298.44
Duloxetine	27241009990	G	7.85	30	\$298.44	\$298.44	\$298.44
Duloxetine	27241009990	G	7.85	30	\$298.44	\$298.44	\$298.44
Duloxetine	27241009990	G	7.85	30	\$298.44	\$298.44	\$298.44
Duloxetine	27241009990	G	7.85	30	\$298.44	\$298.44	\$298.44

Duloxetine	27241009990	G	7.85	30	\$298.44	\$298.44	\$298.44
Duloxetine	27241009990	G	7.85	30	\$298.44	\$298.44	\$298.44
Duloxetine	27241009990	G	7.85	30	\$298.44	\$298.44	\$298.44
Cyclobenzaprine	52817033200	G	1.09	30	\$44.93	\$44.93	\$44.93
						\$3,029.33	\$3,029.33

The total maximum allowable reimbursement is \$3,029.33. 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 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 Zurich American Insurance Co must remit to Injured Workers Pharmacy \$3029.33 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

September 13, 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.