

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Memorial Compounding Rx

Respondent Name

New Hampshire Insurance Co.

MFDR Tracking Number

M4-23-0479-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

October 21, 2022

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
July 6, 2022	Pregabalin 75 mg IR Capsules	\$563.15	\$563.15
	Ibuprofen 800 mg Tablets	\$98.60	\$55.38
Total		\$661.75	\$618.53

Requestor's Position

These medications do not require preauthorization therefore do not need a retrospective review.

Amount in Dispute: \$661.75

Respondent's Position

Payment by the Carrier is not authorized by the Labor Code, as liability for this bill belongs to the claimant's following a third-party liability settlement. The claimant is responsible for payment per fee guideline. The Carrier will generate an EOB audited per fee guideline, and provide to the claimant and Provider.

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 §134.503 sets out the fee guidelines for pharmaceutical services.
3. 28 TAC §§134.530 and 134.540 set out the preauthorization requirements for pharmaceutical services.

Denial Reasons

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

- HE75 – Prior authorization required to process this bill.
- 5264 – Payment is denied-service not authorized.
- 197 – Payment denied/reduced for absence of precertification/authorization.

Issues

1. Did the insurance carrier raise a new defense in its response?
2. Is the insurance carrier's denial of payment based on preauthorization supported?
3. Is Memorial Compounding Rx (Memorial) entitled to reimbursement for the drugs in question?

Findings

1. Memorial is seeking reimbursement for drugs dispensed on July 6, 2022. In its position statement, Flahive, Ogden & Latson, on behalf of New Hampshire Insurance Co., argued that "Payment by the Carrier is not authorized by the Labor Code, as liability for this bill belongs to the claimant's following a third-party liability settlement."

Review of the documentation submitted to DWC finds no evidence of a third-party settlement for this claim.

The response from the insurance carrier is required by 28 TAC §133.307 (d)(2)(F) 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 DWC. Any new denial reasons or defenses raised shall not be considered in this review.

The submitted documentation does not support that non-payment based on third-party settlement was provided to Memorial before this request for MFDR was filed. Therefore, DWC will not consider this argument in the current dispute review.

2. Submitted documentation indicates that the insurance carrier denied that payment was due for the disputed drugs based on 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.

DWC finds that the drugs in question are not identified with a status of “N” in the applicable edition of the ODG, *Appendix A*. Therefore, these drugs do not require preauthorization for this reason.

The submitted documentation does not support that the disputed drugs are a compound. Therefore, these drugs do not require preauthorization for this reason.

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

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

3. Because New Hampshire Insurance Co. failed to support its denial reason for the service in this dispute, DWC finds that Memorial is entitled to reimbursement.

The reimbursement considered in this dispute is calculated according to 28 TAC §134.503 (c).

DWC found no evidence to support that the advance was exhausted, and that New Hampshire Insurance Co. was required to resume payment of medical benefits. DWC concludes that reimbursement by the insurance carrier cannot be recommended.

- Pregabalin 75 mg capsules: $(8.42744 \times 60 \times 1.25) + \$4.00 = \$636.06$
Memorial is seeking \$563.15 for this drug. This amount is recommended.
- Ibuprofen 800 mg tablets: $(0.685 \times 60 \times 1.25) + \$4.00 = \$55.38$

The total allowable reimbursement is \$618.53. 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 \$618.53 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 New Hampshire Insurance Co. must remit to Memorial Compounding Rx \$618.53 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

February 1, 2023

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 electronico CompConnection@tdi.texas.gov.