



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

MEMORIAL COMPOUNDING RX

**Respondent Name**

ACE AMERICAN INSURANCE COMPANY

**MFDR Tracking Number**

M4-23-0579-01

**Carrier's Austin Representative**

Box Number 15

**DWC Date Received**

November 3, 2022

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
September 8, 2022	Prescribed medication	\$247.62	\$0.00
<b>Total</b>		\$247.62	\$0.00

### Requestor's Position

"The original claim was denied on 10/03/2022 based on (NOT APPROVED PROVIDER). An appeal was submitted on 10/13/2022. See attached 2 denials for processing. In addition, the explanation of benefits states that (DUPLICATE CLAIM), is the new denial reason. There were not any additional code changes or services rendered. Therefore, the carrier cannot change from the original denial. As a provider you have to be able to address the bill properly for continue care."

**Amount in Dispute:** \$247.62

### Respondent's Position

"Attached is a copy of the DWC 53 approval order dated 9-20-22 supporting our position that the prescribing physician was not an approved provider on the date of service."

**Response Submitted by:** ESIS

## 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 (TAC) §133.307, effective May 31, 2012, sets out the procedures for resolving medical fee disputes.
2. 28 TAC §134.600, effective March 30, 2014, requires preauthorization for specific treatments and services.
3. 28 TAC §137.100, effective January 18, 2007, sets out the use of the treatment guidelines.
4. 28 TAC §180.22, effective January 9, 2011 requires the treating doctor to coordinate the claimant's health care.

### Denial Reasons

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

- 1 – Not approved provider.
- 2 – Treatment not authorized.

### Issues

1. Is the requestor due reimbursement for medication rendered on September 8, 2022?
2. Is the disputed service recommended by the treating doctor?
3. Is the requestor entitled to reimbursement?

### Findings

1. The insurance carrier denied disputed services with denial reason codes indicated above.

The insurance carrier states, "...the DWC 53 approval order date 9-20-22 supporting our position that the prescribing physician was not an approved provider on the date of service."

28 TAC §180.22(c)(1) states, "The treating doctor is the doctor primarily responsible for the efficient management of health care and for coordinating the health care for an injured employee's compensable injury. The treating doctor shall: (1) except in the case of an emergency, approve or recommend all health care reasonably required that is to be rendered to the injured employee including, but not limited to, treatment or evaluation provided through referrals to consulting and referral doctors or other health care providers, as defined in this section."

Texas Labor Code §408.022 titled *Selection of Doctor*, states, "(a) Except in an emergency, the division shall require an employee to receive medical treatment from a doctor chosen from a list of doctors approved by the commissioner. A doctor may perform only those procedures that are within the scope of the practice for which the doctor is licensed. The employee is entitled to the employee's initial choice of a doctor from the division's list." The submitted documentation did not support that the disputed services were provided in an emergency situation; therefore, Dr. John D. Dang was responsible for managing the claimant's treatment.

Texas Labor Code §408.022 (e)(4) states, "For purposes of this section, the following is not a selection of an alternate doctor: (4) the selection of a doctor because the original doctor: (A) dies; (B) retires; or (C) becomes unavailable or unable to provide medical care to the employee."

The DWC reviewed the submitted medical bill that indicates the prescribing doctor was Jeremy Szeto, D.O. Because Jeremy Szeto, D.O is not the claimant's treating doctor, the respondent's denial reasons are supported.

2. Further, 28 TAC §180.22(e) defines a referral doctor as follows: "The referral doctor is a doctor who examines and treats an injured employee in response to a request from the treating doctor."

28 TAC §180.22(d) defines a consulting doctor as "a doctor who examines an injured employee or the injured employee's medical record in response to a request from the treating doctor, the designated doctor, or the division." A consulting doctor is directed to "(1) perform unbiased evaluations of the injured employee as directed by the requestor [emphasis added]..."

Therefore, the authority of the examining doctor is restricted to the terms of the referral by the treating doctor. The insurance carrier's denial reason is supported for this disputed medication. Reimbursement cannot be recommended for this service.

3. 28 TAC §126.9(d) states, "If an injured employee wants to change treating doctors, other than exceptions as described in Texas Civil Statutes, Article 8308-4.64, or removal of the doctor from the list, the employee shall submit to the field office handling the claim, reasons why the current treating doctor is unacceptable. Unless medical necessity exists for an immediate change, the submission shall be in writing on a form prescribed by the commission. If the need for an immediate change exists, then the injured employee may notify the field office by telephone. Injured employees who change doctors because the doctor is removed from the list or for one of the exceptions listed in Texas Civil Statutes, Article 8308-4.64, shall immediately notify the commission of the change in the form and format prescribed by the commission."

28 TAC §126.9(f) states, "The commission shall issue an order approving or denying a change of doctor request. This order shall be issued within 10 days after receiving the request and, if a change is approved, shall include an order for the insurance carrier to pay for treatment provided by the approved doctor unless superseded by a subsequent order."

The DWC finds that the insurance carrier is not liable for payment of the disputed services because: the requestor was not the treating doctor; and no documentation was submitted to support that the treating doctor referred claimant for prescribed medications.

## 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.

The DWC finds the requester has not established that reimbursement is due.

## **Order**

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is not entitled to reimbursement for the services in dispute.

## **Authorized Signature**

_____	_____	January 18, 2023
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](http://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](mailto: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 prefieres 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](mailto:CompConnection@tdi.texas.gov).