

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

MEMORIAL WELLNESS
PHARMACY

Respondent Name

XL SPECIALTY INSURANCE CO

MFDR Tracking Number

M4-23-1415-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

February 16, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
October 17, 2022	Diclofenac Sodium 1 % Gel	\$174.20	\$149.88

Requestor's Position

"The above claimant received Medication as prescribed by referral provider. Bill for date of service 10/17/2022 still has not been processed by carrier. All bills are required to be processed within 45 days of receipts by the carrier as per Texas Labor Code 408.027(b)."

Amount in Dispute: \$174.20

Respondent's Position

"Assuming the drug in question is used here for musculoskeletal injuries (or other non-compensable conditions), and the ODG recommends its use only for acute musculoskeletal injuries only in the acute phase, the bill was denied for no coverage for this drug for the presumed purpose for which it was prescribed."

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](#) sets out the procedures for resolving medical fee disputes.
2. [28 TAC §134.503](#) sets out the pharmacy fee guideline.
3. [28 TAC §133.240](#) sets out the medical payments and denials.
4. [28 TAC §124.3](#) sets out investigations of an Injury and Notice of Denial or Dispute.
5. [28 TAC §124.2](#) sets out Insurance Carrier Reporting and Notification Requirements.

Denial Reasons

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

- 60 (B13) The provider has billed for the exact services on a previous bill
- ZR (P12) The provider or a different provider has billed for the exact service on a previous bill where no allowance was originally recommended
- HE70 – Product/Service not covered

Issues

1. Are there any unresolved issues related to extent, liability or compensability for the disputed service?
2. Is MEMORIAL WELLNESS PHARMACY entitled to additional reimbursement?

Findings

1. The insurance carrier denied disputed service with denial reason:
 - HE70 – Product/Service not covered

28 TAC §133.240(h) states: An insurance carrier shall have filed, or shall concurrently file, the applicable notice required by Labor Code §409.021, and §124.2 and §124.3 of this title (relating to Investigation of an Injury and Notice of Denial/Dispute) if the insurance carrier reduces or denies payment for health care provided based solely on the insurance carrier's belief that

28 TAC §124.3(f) states: Labor Code §409.021 and subsection (a) of this section do not apply to

disputes of extent of injury. If an insurance carrier receives a medical bill that involves treatment(s) or service(s) that the insurance carrier believes is not related to the compensable injury, the insurance carrier shall file a notice of dispute of extent of injury (notice of dispute). The notice of dispute shall be filed in accordance with §124.2 of this title and be filed not later than the earlier of:

- (1) the date the insurance carrier denied the medical bill; or

28 TAC §124.2(h) states: The insurance carrier shall issue a Notice of Continuing Investigation as a plain language notice in the form and manner prescribed by the division. The notification requirements of this section are not considered complete until a copy of the notice provided to the claimant is received by the division.

Furthermore, if a medical fee dispute involves compensability, extent of injury, or liability, Rule §133.307(d)(2)(H) requires to attach to the MDFR response a copy of any related Plain Language Notice issued per Rule §124.2.

Review of the submitted documentation finds no Plain Language Notice disputing extent of injury, liability or compensability in accordance with Rules §133.240(h), §124.3(f) and §124.2(h). Additionally, the insurance carrier failed to maintain any denial reason related to extent of injury, liability or compensability on the EOB issued to the provider after reconsideration of the medical bill.

- 2. MEMORIAL WELLNESS PHARMACY is requesting reimbursement for Diclofenac Sodium 1 % Gel dispensed on October 17, 2022.

DWC Rule 28 Texas Administrative Code §134.503(c)(1)(A) states

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;

Drug	NDC	Generic(G) /Brand(B)	Price /Unit	Units Billed	AWP Formula	Billed Amt	Lesser of AWP and Billed
Diclofenac Sodium	21922000909	G	\$0.58	200	\$149.88	\$174.20	\$149.88
						Total	\$149.88

The total reimbursement is \$149.88. 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 \$149.88 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 XL SPECIALTY INSURANCE CO must remit to MEMORIAL WELLNESS PHARMACY \$149.88 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature



June 7, 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. 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.