

## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Injured Workers Pharmacy

**Respondent Name**

New Hampshire Insurance Co.

**MFDR Tracking Number**

M4-23-1929-01

**Carrier's Austin Representative**

Box Number 19

**DWC Date Received**

April 6, 2023

### Summary of Findings

| Dates of Service   | Disputed Services                 | Amount in Dispute | Amount Due        |
|--------------------|-----------------------------------|-------------------|-------------------|
| April 5, 2022      | Levetiracetam 500 mg Tablets      | \$527.64          | \$527.64          |
| April 7, 2022      | Quetiapine Fumarate 25 mg Tablets | \$298.37          | \$0.00            |
| May 2, 2022        | Quetiapine Fumarate 25 mg Tablets | \$527.64          | \$0.00            |
| May 2, 2022        | Levetiracetam 500 mg Tablets      | \$527.64          | \$0.00            |
| July 8, 2022       | Quetiapine Fumarate 25 mg Tablets | \$298.37          | \$298.37          |
| July 28, 2022      | Trazadone 100 mg Tablets          | \$209.52          | \$0.00            |
| August 8, 2022     | Quetiapine Fumarate 25 mg Tablets | \$298.37          | \$298.37          |
| August 22, 2022    | Trazadone 100 mg Tablets          | \$209.52          | \$0.00            |
| September 6, 2022  | Quetiapine Fumarate 25 mg Tablets | \$298.37          | \$298.37          |
| September 20, 2022 | Trazadone 100 mg Tablets          | \$209.52          | \$0.00            |
| October 10, 2022   | Quetiapine Fumarate 25 mg Tablets | \$592.74          | \$0.00            |
| October 20, 2022   | Trazadone 100 mg Tablets          | \$209.52          | \$0.00            |
| <b>Total</b>       |                                   | <b>\$4,207.22</b> | <b>\$1,422.75</b> |

### Requestor's Position

"A Medical Fee Dispute Resolution request has been submitted for non-payment of medications that were pre-authorized and approved by Sedgwick's Utilization Review Department ... the bills continue to deny out for no-preauthorization. The adjuster and team lead have also confirmed these medications should be covered ..."

**Amount in Dispute:** \$4,207.22

## Respondent's Position

The Austin carrier representative for New Hampshire Insurance Co. is Flahive, Ogden & Latson. The representative was notified of this medical fee dispute on April 11, 2023.

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 \(TLC\) §413.031](#) and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

### Statutes and Rules

1. [28 Texas Administrative Code \(TAC\) §102.3](#) sets out the method used for calculating days.
2. [28 TAC §102.4](#) sets out the procedures for non-division communications.
3. [28 TAC §133.20](#) sets out the procedures for submitting medical bills.
4. [28 TAC §133.307](#) sets out the procedures for resolving medical fee disputes.
5. [28 TAC §134.502](#) sets out the procedures for pharmaceutical services.
6. [28 TAC §134.503](#) sets out the fee guidelines for pharmaceutical services.
7. 28 TAC §[134.530](#) and [134.540](#) set out the procedures for preauthorization of pharmaceutical services.
8. [28 TAC §134.600](#) sets out the procedures for preauthorization.
9. [28 TAC §19.2009](#) sets out the requirements for the notice of determination of utilization review.
10. [TLC §408.028](#) provides the requirements for pharmaceutical services.

## Denial Reasons

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

- HE70 – Product/service not covered
- 60(B13) – The provider has billed for the exact services on a previous bill.
- 9D(P12) – The charge for the Closed Formulary Drug requires Prior Authorization as defined within Texas Administrative Code Chapter 134, Section 134.530 and 134.540. If Prior Authorization was obtained, please resubmit with a copy of the required information.
- ZR(P12) – The provider or a different provider has billed for the exact service on a previous bill where no allowance was originally recommended.
- B13:60 – Previously paid. Payment for this claim/service may have been provided in a previous payment.
- P12:ZR/9D/XD – Workers' compensation jurisdictional fee schedule adjustment.
- N3(B20) – A reduction was made because a different provider has billed for the exact services on a previous bill.
- B20:N3 – Procedure/service was partially or fully furnished by another provider.
- XD(P12) – This bill was submitted after the billing timeliness guidelines provided.

## Issues

1. Are the services in question covered?
2. Is New Hampshire Insurance Co.'s denial based on timely filing supported?
3. Is New Hampshire Insurance Co.'s denial based on preauthorization supported?
4. Is New Hampshire Insurance Co.'s denial based on duplicated billing or billing by another provider supported?
5. Is Injured Workers Pharmacy entitled to additional reimbursement?

## Findings

1. Injured Workers Pharmacy is seeking reimbursement for dispensed drugs on dates of service April 5, 2022, through October 20, 2022. The insurance carrier denied the following dates of service, in part, stating, "Product/Service Not Covered:"
  - Levetiracetam, date of service: April 5, 2022;
  - Quetiapine Fumarate, date of service: July 8, 2022;
  - Quetiapine Fumarate, date of service: August 8, 2022;
  - Trazodone, date of service: August 22, 2022;
  - Trazodone, date of service: September 20, 2022; and
  - Quetiapine Fumarate, date of service: October 10, 2022.

Pharmaceutical services for workers' compensation injuries are covered under TLC §408.028, which states in relevant part, "(a) A physician providing care to an employee under this subchapter shall prescribe for the employee any necessary prescription drugs, and order over-the-counter alternatives to prescription medications as clinically appropriate and applicable."

28 TAC §134.502(a) states, "A doctor providing care to an injured employee shall prescribe for the employee medically necessary prescription drugs and over-the-counter medication (OTC) alternatives as clinically appropriate and applicable in accordance with applicable state law and as provided by this section."

DWC finds that pharmaceutical services are covered and the insurance carrier failed to support its reason for this denial.

2. The insurance carrier denied the following services, in part, based on timely filing:

- Quetiapine Fumarate, date of service: April 7, 2022;
- Quetiapine Fumarate, date of service: May 2, 2022; and
- Levetiracetam, date of service: May 2, 2022.

28 TAC §133.20(b) states, in relevant part, "Except as provided in Labor Code §408.0272(b), (c) or (d), a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided."

28 TAC §102.3(a)(1) states in relevant part, "In counting a period of time measured by days, the first day is excluded and the last day is included."

28 TAC §102.4 states:

"(h) Unless the great weight of evidence indicates otherwise, written communications will be deemed to have been sent on:

- (1) the date received if sent by fax, personal delivery, or electronic transmission; or
- (2) the date postmarked if sent by mail through United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent must be the next previous day that is not a Sunday or legal holiday."

A review of the submitted documentation finds that the bill for date of service April 7, 2022, was received by the insurance carrier on October 11, 2022. This is more than 95 days after the date of service. Therefore, the insurance carrier's denial for this date of service is supported.

Explanation of benefits dated August 23, 2022 indicates that the bills for date of service May 2, 2022, were received by the insurance carrier on August 8, 2022. No evidence of electronic submission was provided for these services. DWC found no postmark date. Therefore, the bills for these dates of service are deemed to be submitted on August 3, 2022. This is less than 95 days from the date of service. Therefore, the insurance carrier's denial for these services based on timely filing is not supported.

3. New Hampshire Insurance Co. denied the following services, in part, based on lack of preauthorization:

- Quetiapine Fumarate, date of service: May 2, 2022;
- Levetiracetam, date of service: May 2, 2022;
- Quetiapine Fumarate, date of service: July 8, 2022;
- Trazodone, date of service: July 28, 2022;
- Quetiapine Fumarate, date of service: August 8, 2022;
- Trazodone, date of service: August 22, 2022;
- Quetiapine Fumarate, date of service: September 6, 2022;
- Trazodone, date of service: September 20, 2022;
- Quetiapine Fumarate, date of service: October 10, 2022; and
- Trazodone, date of service: October 20, 2022.

28 TAC §134.600(c) states, in relevant part, "The insurance carrier is liable for all reasonable and necessary medical costs relating to the health care: (1) listed in subsection (p) or (q) of this section only when the following situations occur: ... (B) preauthorization of any health care listed in subsection (p) of this section that was approved prior to providing the health care." Subsection (p)(11) requires preauthorization for "drugs not included in the applicable division formulary."

28 TAC §§134.530(b)(1) and 134.540(b) require preauthorization for "drugs identified with a status of 'N' in the current edition of the *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary*, and any updates." DWC finds that all of the drugs in question are identified with a status of "N" in the current edition of the ODG / Appendix A for the relevant dates of service. Therefore, preauthorization is required for each of these services.

Quetiapine Fumarate tablets dispensed on May 2, 2022, were billed under preauthorization reference number 4380027. Review of the documentation submitted does not support that this number includes Quetiapine Fumarate. DWC concludes that the denial of this drug on this date of service based on lack of preauthorization is supported.

Levetiracetam tablets dispensed on May 2, 2022, were billed under preauthorization reference number 4658415. Review of the documentation submitted does not find evidence of this preauthorization for this drug. DWC finds that the denial of this drug on this date of service based on lack of preauthorization is supported.

Submitted documentation included a utilization review certification approving "Quetiapine Fumarate 25mg #60 DS: 60 x 3 refills" with a start date of June 6, 2022, and an end date of May 6, 2023, preauthorization reference number 4649812. Dates of service July 8, 2022; August 8, 2022; and September 6, 2022, were billed under this preauthorization number. Therefore, denial of payment based on lack of preauthorization is not supported for these services.

Trazadone tablets dispensed on July 28, 2022; August 22, 2022; September 20, 2022 and October 20, 2022, were billed under preauthorization reference number 4714384. Review of the documentation submitted does not provide evidence of this preauthorization for this drug. DWC finds that the denial of this drug on this date of service based on lack of preauthorization is supported.

Quetiapine Fumarate tablets dispensed on October 10, 2022, were billed under preauthorization reference number 4811555. Review of the documentation submitted does not find evidence of this preauthorization for this drug. DWC finds that the denial of this drug on this date of service based on lack of preauthorization is supported.

4. The insurance carrier also denied reimbursement for the following services, in part, based on duplicated billing or billing by another provider:
  - Quetiapine Fumarate, date of service: July 8, 2022;
  - Quetiapine Fumarate, date of service: August 8, 2022; and
  - Quetiapine Fumarate, date of service: September 6, 2022.

Review of the documentation submitted finds no evidence of duplicated billing or billing by another provider. DWC finds that this denial reason for the services in question is not supported.

5. The insurance carrier failed to support its denial of payment for the following services:
  - Levetiracetam tablets, date of service: April 5, 2022;
  - Quetiapine Fumarate tablets, date of service: July 8, 2022;
  - Quetiapine Fumarate tablets, date of service: August 8, 2022; and
  - Quetiapine Fumarate tablets, date of service: September 6, 2022.

Therefore, Injured Workers Pharmacy is entitled to reimbursement for these services.

The reimbursement considered in this dispute is calculated according to 28 TAC §134.503(c)(a), with relevant formula for generic drugs:  $((AWP \text{ per unit}) \times (\text{number of units}) \times 1.25) + \$4.00$  dispensing fee per prescription = reimbursement amount.

- Levetiracetam 500 mg tablets:  $(3.49092 \times 120 \times 1.25) + \$4.00 = \$527.64$
- Quetiapine Fumarate 25 mg tablets:  $(3.92492 \times 60 \times 1.25) + \$4.00 = \$298.37$

The total allowable reimbursement for Levetiracetam tablets is \$527.64. The total allowable reimbursement for Quetiapine Fumarate tablets is \$298.37 for each date of service for a total of \$895.11. DWC finds that Injured Workers Pharmacy is entitled to a reimbursement of \$1,422.75.

## 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 requestor has established that additional reimbursement of \$1,422.75 is due.

## **Order**

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to reimbursement for the disputed services. It is ordered that New Hampshire Insurance Co. must remit to Injured Workers Pharmacy \$1,422.75 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

## **Authorized Signature**

|           |  |                 |
|-----------|--|-----------------|
| _____     | _____                                  | August 11, 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 three 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 prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 1-800-252-7031, opción tres o correo electrónico [CompConnection@tdi.texas.gov](mailto:CompConnection@tdi.texas.gov).