



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

EZ Scripts, LLC

**Respondent Name**

New Hampshire Insurance Co.

**MFDR Tracking Number**

M4-23-2163-01

**Carrier's Austin Representative**

Box Number 19

**DWC Date Received**

May 3, 2023

### Summary of Findings

| Dates of Service | Disputed Services                            | Amount in Dispute | Amount Due    |
|------------------|--|-------------------|---------------|
| May 27, 2022     | Ibuprofen Oral Tab 600 mg<br>NDC 55111068305 | \$23.50           | \$0.00        |
|                  | Cyclobenzaprine 7.5 mg<br>NDC 59746073501    | \$184.20          | \$0.00        |
|                  | Omeprazole 20 mg Cap<br>NDC 55111015810      | \$159.60          | \$0.00        |
|                  | Diclofenac Ext Gel 1%<br>NDC 21922000909     | \$150.00          | \$0.00        |
|                  | Biofreeze External Gel 4%<br>NDC 59316010212 | \$37.38           | \$0.00        |
| <b>Total</b>     |  | <b>\$554.48</b>   | <b>\$0.00</b> |

### Requestor's Position

"The bill for the medications were denied because 'Services not provided by network/primary care providers.' These prescriptions were written by the patients primary care provider and filled by EZ Scripts. There was no valid reason for these denials."

**Amount in Dispute:** \$554.48

### 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 May 9, 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 \(TAC\) §133.305](#) sets out the procedures for resolving medical disputes.
2. [28 TAC §133.307](#) sets out the procedures for resolving medical fee disputes.
3. [28 TAC §180.22](#) defines health care provider roles and responsibilities within the workers' compensation system.

### Denial Reasons

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

- 109 – Claim not covered by this payer/contractor. You must send the claim to the correct payer/contractor.
- 242 – Services not provided by network/primary care providers.
- 5037 – Services not provided by network or primary care providers.
- 396 – Payment is denied as the MCOs pay-to provider is not on file.
- D1 – Duplicate Control Number – 45334834
- 247 (5715) – A payment or denial has already been recommended for this service.

### Issues

1. Is this dispute subject to dismissal based on liability?
2. Is New Hampshire Insurance Co.'s denial because services were not provided by the primary care provider supported?

## Findings

1. EZ Scripts, LLC is seeking reimbursement for drugs dispensed on May 27, 2022. The insurance carrier denied payment, in part, stating, "CLAIM NOT COVERED BY THIS PAYER/CONTRACTOR. YOU MUST SEND THE CLAIM TO THE CORRECT PAYER/CONTRACTOR."

28 TAC §133.305(b) states: " Dispute Sequence. If a dispute regarding compensability, extent of injury, liability, or medical necessity exists for the same service for which there is a medical fee dispute, the disputes regarding compensability, extent of injury, liability, or medical necessity shall be resolved prior to the submission of a medical fee dispute for the same services in accordance with Labor Code §413.031 and §408.021."

28 TAC §133.307(d)(2)(H) requires that "If the medical fee dispute involves compensability, extent of injury, or liability, the insurance carrier must attach any related Plain Language Notice in accordance with §124.2 of this title (concerning Insurance Carrier Reporting and Notification Requirements)."

DWC finds that the insurance carrier failed to provide a Plain Language Notice or any other documentation to support a denial based on liability for the claim in question. This dispute is therefore not subject to dismissal for this reason.

2. The insurance carrier also denied reimbursement stating, "Services not provided by network or primary care providers."

28 TAC §180.22(c)(1) states that except in the case of an emergency, the treating doctor shall "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 ..."

Documentation submitted to DWC finds that the drugs in question were prescribed by Dr. Babu Draksharam. Available information indicates Dr. Draksharam is not the treating doctor. No evidence was received to support that the drugs were approved or recommended by the treating doctor or that Dr. Draksharam received a referral for treatment from the treating doctor.

DWC finds that the insurance carrier's denial of payment for this reason is supported.

## 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 not established that additional reimbursement is due.

## Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to \$0.00 reimbursement for the disputed services.

### Authorized Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

June 30, 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](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).