



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Memorial Wellness Pharmacy

**Respondent Name**

Indemnity Insurance Co of North America

**MFDR Tracking Number**

M4-23-2326-01

**Carrier's Austin Representative**

Box Number 15

**DWC Date Received**

May 17, 2023

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
October 27, 2022	51991-0747-10	\$509.96	\$509.96
		\$509.96	\$509.96

### Requestor's Position

"Memorial Wellness Pharmacy has received several denials for bill with date of service (10/27/2022). The carrier denied the original bill as well as the reconsideration based on non-compensable claim. ...I have attached the EOB's as well as the documentation to prove that Memorial Wellness Pharmacy has met the requirements to receive reimbursement."

**Amount in Dispute:** \$509.06

### Respondent's Position

"The entitlement to reimbursement for the subject medical bill has been denied on the basis of medication is for the treatment unrelated to the compensable injury,"

**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 Texas Administrative Code §133.305 sets out the general medical provisions of medical dispute.
3. 28 Texas Administrative Code §133.240 sets out procedures for medical payments and denials.
4. 28 Texas Administrative Code §124.2 sets out insurance carrier reporting and notification requirements.
5. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmacy services.

## Denial Reasons

- 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly
- 5270 – Claim denied because this is not a work related injury/illness and thus not the responsibility of the workers' compensation carrier.
- 219 – Based on extent of injury

## Issues

1. Was the required notice submitted to the requestor?
2. What rule(s) apply to disputed services?

## **Findings**

1. DWC Rule 28 TAC §133.305 (b) states that if a dispute regarding extent-of-injury exists for the same service for which there is a medical fee dispute, the dispute regarding extent-of-injury shall be resolved prior to the submission of a medical fee dispute.

Documentation provided by the parties indicates that the insurance carrier denied payment to the requestor due to an unresolved extent-of-injury issue. The carrier's explanation of benefits was timely presented to the requestor in the manner required by 28 TAC §133.240.

DWC Rule 28 TAC §133.307(d)(2)(H) further requires that if the medical fee dispute involves

compensability, extent of injury, or liability, the insurance carrier shall attach a copy of any related Plain Language Notice in accordance with Rule §124.2 (relating to carrier reporting and notification requirements).

DWC Rule 28 TAC §124.2(h) requires notification to the division and claimant of any dispute of disability or extent of injury using plain language notices with language and content prescribed by the division. Such notices “shall provide a full and complete statement describing the carrier's action and its reason(s) for such action. The statement must contain sufficient claim-specific substantive information to enable the employee/legal beneficiary to understand the carrier's position or action taken on the claim.”

Review of the submitted documentation found the “Notice of Dispute” is dated November 7, 2022. The date of service of the disputed service is October 27, 2022 prior to the required notice. The service in dispute will be reviewed per applicable fee guideline.

2. The requestor is seeking reimbursement for oral medication dispensed October 27, 2022. The insurance company denied the claim as described above. The service in dispute will be reviewed per applicable fee guideline.

DWC Rule 28 Texas Administrative Code §134.503 (c)(1)(A)(B) states in pertinent part (c) 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;

(B) Brand name drugs:  $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \$4.00$  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
Duloxetine	51991074701	G	7.54	60	\$569.58	\$509.96	\$509.06
						\$509.96	\$509.96

The total reimbursement is \$509.06. 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 requestor has established that additional reimbursement 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 Indemnity Insurance Co of North America must remit to Memorial Wellness Pharmacy \$509.96 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

### Authorized Signature

_____	_____	June 19, 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 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](mailto:CompConnection@tdi.texas.gov).