



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Memorial Wellness Pharmacy

Respondent Name

Zurich American Insurance Co

MFDR Tracking Number

M4-23-2425-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

May 24, 2023

Summary of Findings

| Dates of Service | Disputed Services | Amount in Dispute | Amount Due |
|-------------------|---|-------------------|------------|
| December 12, 2022 | 16729-0171-01 Amitriptyline HCL 10 mg | \$67.04 | \$11.22 |
| December 12, 2022 | 59651-0362-05 Ibuprofen | \$98.60 | \$15.93 |
| December 12, 2022 | 00904-6773-61 Acetaminophe Tab 325mg | \$68.50 | \$55.38 |
| | | \$234.14 | \$82.53 |

Requestor's Position

"The service billed has a "Y" code therefore does not require preauthorization. ...a call was placed to the carrier to confirm patient demographics as well as compensability. Memorial was not notified of any disputes or PLN11 filed.

Amount in Dispute: \$234.14

Respondent's Position

"The entitlement to reimbursement for the subject medical bill has been denied on and extent of

injury basis (medication is for the treatment unrelated to the compensable injury). Under 28 TAC 133.307(f)(3)(C), this request must be DISMISSED.”

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 \(TAC\) §133.307](#) sets out the procedures for resolving medical fee disputes.
2. [28 TAC §124.2](#) sets out the requirements for plain language notification.
3. [28 TAC §134.530](#) sets out the requirements of prior authorization.
4. [28 TAC §134.503](#) sets out the fee guidelines for pharmacy services.

Denial Reasons

- P2 – Not a work related injury/illness and thus not the liability of the workers’ compensation carrier.
- 75 – Prior authorization required
- 85 – Claim not processed

Issues

1. Did the respondent meet the requirements of Plain Language Notification?
2. Was prior authorization required?
3. What rule(s) apply to disputed services?

Findings

1. DWC Rule 28 TAC §133.307(d)(2)(H) 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 information finds no copies, as required by Rule §133.307(d)(2)(H), of any PLN-11 or PLN 1 notices issued in accordance with Rule §124.2. The insurance carrier’s denial reason is therefore not supported. Furthermore, because the respondent failed to meet the requirements of Rule §133.307(d)(2)(H) regarding notice of issues of extent of injury, the respondent has waived the right to raise such issues during dispute resolution. Consequently, the division concludes there are no outstanding issues of compensability, extent, or liability for the injury. The disputed services are therefore reviewed pursuant to the applicable rules and guidelines.

2. The requestor is seeking reimbursement for oral medication dispensed in December 2022. The insurance company made a denial for lack of prior authorization. DWC Rule 134.530 (b)(1)(A) states in pertinent part, Preauthorization is only required for drugs identified with a status of “N” in the current edition of the ODG Treatment in Workers’ Comp (ODG) / Appendix A.

Review of the applicable Appendix A found at www.tdi.texas.gov, found none of the disputed services are listed as “N” drugs. The insurance carrier’s denial is not supported. The service in dispute will be reviewed per applicable fee guideline.

3. 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: $((AWP \text{ per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount;

(B) Brand name drugs: $((AWP \text{ 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 |
|-------------------|---------------|----------------------|-------------|--------------|-------------|------------|--------------------------|
| Acetaminophen Tab | 00904-6773-61 | G | 0.064 | 90 | \$11.22 | \$68.50 | \$11.22 |
| Amitriptyline HCL | 16729-0171-01 | G | 0.318 | 30 | \$15.93 | \$67.04 | \$15.93 |
| Ibuprofen | 59651-0362-05 | G | 0.685 | 60 | \$55.38 | \$98.60 | \$55.38 |
| | | | | | | \$234.14 | \$82.53 |

The total reimbursement is \$82.53. 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 is due.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to \$82.53 reimbursement for the disputed services. It is ordered that Zurich American Insurance Co must remit to Memorial Wellness Pharmacy \$82.53 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

| | | |
|-----------|--|---------------|
| _____ | _____ | July 12, 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.