



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Memorial Wellness Rx

Respondent Name

Indemnity Insurance Co. of North America

MFDR Tracking Number

M4-23-2454-01

Carrier's Austin Representative

Box Number 15

DWC Date Received

March 25, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
10/13/2022	CYCLOBENZAPRINE 10 MG TABLET NDC:69097-0846-15	\$90.24	\$0.00
		\$90.24	\$0.00

Requestor's Position

"...The carrier denied the original bill as well as the reconsideration based on TIMELY FILING... 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: \$90.24

Respondent's Position

"...There is an unresolved Extent of Injury dispute. The DWC's authority to adjudicate medical fee disputes is limited to resolving 'the amount due for services determined to be medically necessary and appropriate for treatment of a 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 \(TAC\) §133.240](#) sets out the procedures for payment or denial of a medical bill.
2. [28 TAC §133.307](#) sets out the procedures for resolving medical fee disputes.
3. [28 TAC §133.20](#) sets out requirements of medical bill submission by health care providers.
4. [28 TAC §134.503](#) sets out the fee guidelines for pharmaceutical services.

Denial Reasons

- 29 - THE TIME LIMIT FOR FILING HAS EXPIRED.
- W3 - BILL IS A RECONSIDERATION OR APPEAL.
- 193 - ORIGINAL PAYMENT DECISION IS BEING MAINTAINED. UPON REVIEW, IT WAS DETERMINED THAT THIS CLAIM WAS PROCESSED PROPERLY.

Issues

1. Did the insurance carrier raise a new defense in its response?
2. Is the reason for denial, untimely filing of the medical bill, supported?
3. Is Memorial Wellness Rx entitled to reimbursement?

Findings

1. Memorial is seeking reimbursement for drugs billed on disputed date of service October 13, 2022.

In its position statement, Flahive, Ogden & Latson, on behalf of the insurance carrier argued that "There is an unresolved extent of injury dispute."

The response from the insurance carrier is required by 28 TAC §133.307 (d)(2)(F) to address only the denial reasons presented to the health care provider before the request for medical fee dispute resolution (MFDR) was filed with DWC. Any new denial reasons or defenses raised shall not be considered in this review.

The submitted documentation does not support that a denial based on extent of the compensable injury was provided to Memorial before this request for MFDR was filed. Therefore, DWC will not consider this argument in the current dispute review.

2. Per explanation of benefits (EOB) submitted, the drug in dispute, with date of service October 13, 2022, was denied reimbursement due to untimely filing of the medical bill.

28 TAC §133.20 sets out requirements of timely medical bill submission, states in pertinent part "(b) 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. In accordance with subsection (c) of the statute, the health care provider shall submit the medical bill to the correct workers' compensation insurance carrier not later than the 95th day after the date the health care provider is notified of the health care provider's erroneous submission of the medical bill. A health care provider who submits a medical bill to the correct workers' compensation insurance carrier shall include a copy of the original medical bill submitted, a copy of the explanation of benefits (EOB) if available, and sufficient documentation to support why one or more of the exceptions for untimely submission of a medical bill under §408.0272 should be applied."

Texas Labor Code §408.0272(b) sets out certain exceptions for untimely submission of a claim, states "(b) Notwithstanding Section 408.027, a health care provider who fails to timely submit a claim for payment to the insurance carrier under Section 408.027(a) does not forfeit the provider's right to reimbursement for that claim for payment solely for failure to submit a timely claim if: (1) the provider submits proof satisfactory to the commissioner that the provider, within the period prescribed by Section 408.027(a), erroneously filed for reimbursement with: (A) an insurer that issues a policy of group accident and health insurance under which the injured employee is a covered insured; (B) a health maintenance organization that issues an evidence of coverage under which the injured employee is a covered enrollee; or (C) a workers' compensation insurance carrier other than the insurance carrier liable for the payment of benefits under this title; or (2) the commissioner determines that the failure resulted from a catastrophic event that substantially interfered with the normal business operations of the provider."

The division finds no documentation that any of the exceptions to the 95 day timely filing rule, set out in Labor Code §408.0272, exist in this dispute.

The drug in dispute has a date of service October 13, 2022, per the medical bill submitted. Ninety-five days from date of service October 13, 2022, was January 16, 2023. Review of submitted EOBs finds that the first date the medical bill in dispute was received by the insurance carrier was on January 19, 2023, greater than 95 days from the date of service.

The division finds that the denial reason 29, defined above, is supported.

3. The requester is seeking reimbursement for drugs billed with date of service October 13, 2022.

Review of submitted documents finds that the requester failed to support timely filing of the disputed medical bill, with date of service October 13, 2022, in accordance with 28 TAC §133.20.

Therefore, the division finds that the requester is not entitled to reimbursement for Cyclobenzoprine IOmg tablet, NDC:69097-0846-15, date of service October 13, 2022.

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.

The division finds the requester has not established that 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

_____	_____	June 29, 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.