



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name
Injured Workers Pharmacy, LLC

Respondent Name
State Office of Risk Management

MFDR Tracking Number
M4-23-2527-01

Carrier's Austin Representative
Box Number 45

DWC Date Received
May 10, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
02/11/2022	Butalbital/acetaminophen NDC 51862054401	\$404.12	\$0.00
02/14/2022	Butalbital/acetaminophen NDC 51862054401	\$1,240.73	\$0.00
03/07/2022	Ondansetron HCL NDC 16714015901	\$913.86	\$0.00
03/08/2022	Butalbital/acetaminophen NDC 51862054401	\$1,640.85	\$0.00
03/28/2022	Ondansetron HCL NDC 16714015901	\$913.86	\$0.00
07/21/2022	Butalbital/acetaminophen NDC 51862054401	\$1,640.85	\$0.00
09/13/2022	Butalbital/acetaminophen NDC 51862054401	\$1,640.85	\$0.00
Total		\$8,395.12	\$0.00

Requestor's Position

"A Medical Fee Dispute Resolution request has been submitted for carrier denials on the medications BUTALBITAL-ACETAMINOPHEN 50-300 MG CAPSULE, NDC 51862054401 and ONDANSETRON HCL 4 MG TABLE, NDC 16714015901. Please note, there was a recent DDE report regarding extent, so please do not decline based on the date of these bills... It is my understanding that additional time is awarded if a Designated Doctor confirms additional extent. The medications were originally denied for medical necessity. Our pharmacy was able to obtain a letter of medical necessity substantiating the treatment for both medications... the medication ONDANSETRON HCL 4 MG TABLET was pre-authorized and approved from 3/4/22 through 4/30/22 (pre-authorization/certification # 0003-0937-1100) and from 3/28/22 through 6/28/22 (pre-authorization/certification # 0003-0980-8900)."

Amount in Dispute: \$8,395.12

Respondent's Position

"...responding at this time to only the dates of service eligible for review which are 7/21/2022 and 9/13/2022. The Office reviewed the medical billing for dates of service 7/21/22 and 9/13/2022 and determined the denial of 197- Precertification/authorization/notification absent will be maintained as the medication under NDC 51862-0544 is listed in the ODG formulary as an 'N' status medication and requires preauthorization pursuant to 28 TAC Rule 134.540(b)... Furthermore, The Office respectfully requests the Division deem dates of service 2/11/22-3/28/22 not eligible for review as it has been determined that the provider did not submit the medical fee dispute in accordance with Rule §133.307(c)(1) and 133.307 (f)(3)B."

Response Submitted by: State Office of Risk Management

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 (MFDR).
2. [28 TAC §134.503](#) sets out the fee guidelines for pharmaceutical services.
3. [28 TAC §§134.530](#) and [134.540](#) set out the preauthorization requirements for pharmaceutical services. app

Denial Reasons

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

- P13 – Payment reduced or denied based on workers' compensation jurisdictional regulations or payment policies, use only if no other code is applicable.
- There is no medical to support the rationale for the use of these medications for the treatment for the compensable injury.
- 16 - Claim/service lacks information which is needed for adjudication.
- Documentation needed to support necessity of medication.
- 197 – Payment denied/reduced for absence of Precertification/Preauthorization.
- 193 – Original payment decision is being maintained.

Issues

1. Which disputed dates of service are eligible for medical fee dispute resolution (MFDR) review?
2. Is the insurance carrier's denial of payment based on preauthorization supported?
3. Is Injured Workers Pharmacy entitled to reimbursement?

Findings

1. The requester is seeking reimbursement for multiple dates of service from February 11, 2022, through September 13, 2022. The DWC060 MFDR request form was received by the division on May 10, 2023.

28 Texas Administrative Code (TAC) §133.307 (c) sets out the timely filing procedures for Medical Fee Dispute Resolution requests. It requires a request for MFDR that does not meet any exceptions listed in 28 TAC §133.307(c)(1)(B) to be filed no later than one year after the dates of service in dispute.

To qualify for the exceptions to the one-year timely filing requirement, 28 TAC §133.307(c)(1)(B) states,

(B) A request may be filed later than one year after the date(s) of service if:

- (i) a related compensability, extent of injury, or liability dispute under Labor Code Chapter 410 has been filed, the medical fee dispute shall be filed not later than 60 days after the date the requestor receives the final decision, inclusive of all appeals, on compensability, extent of injury, or liability;
- (ii) a medical dispute regarding medical necessity has been filed, the medical fee dispute must be filed not later than 60 days after the date the requestor received the final decision on medical necessity, inclusive of all appeals, related to the health care in dispute and for which the insurance carrier previously denied payment based on medical necessity; or

(iii) the dispute relates to a refund notice issued pursuant to a division audit or review, the medical fee dispute must be filed not later than 60 days after the date of the receipt of a refund notice."

Review of submitted documentation finds that the disputed dates of service, February 11, 2022, through March 28, 2022, do not qualify for any of the exceptions to the one-year timely filing requirement for MFDR set out in 28 TAC §133.307(c).

The DWC finds that the disputed dates of service eligible for MFDR review are July 21, 2022, and September 13, 2022.

2. Submitted documentation indicates that the insurance carrier denied the drug Butalbital based on lack of preauthorization, for dates of service July 21, 2022, and September 13, 2022.

Per 28 TAC §134.530(b)(1),

(b) Preauthorization form claims subject to the Division's closed formulary.

(1) Preauthorization is only required for:

(A) 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;

(B) any prescription drug created through compounding prescribed before July 1, 2018 that contains a drug 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;

(C) any prescription drug created through compounding prescribed and dispensed on or after July 1, 2018; and

(D) any investigational or experimental drug for which there is early, developing scientific or clinical evidence demonstrating the potential efficacy of the treatment, but which is not yet broadly accepted as the prevailing standard of care as defined in Labor Code §413.014(a).

Per TAC §134.540 (b)(1-4),

(b) Preauthorization for claims subject to the Division's closed formulary. Preauthorization is only required for:

(1) 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;

(2) any prescription drug created through compounding prescribed before July 1, 2018 that contains a drug 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;

(3) any prescription drug created through compounding prescribed and dispensed on or after July 1, 2018; and

(4) any investigational or experimental drug for which there is early, developing scientific or clinical evidence demonstrating the potential efficacy of the treatment, but which is not yet broadly accepted as the prevailing standard of care as defined in Labor Code §413.014(a).

The division finds that the drug Butalbital, NDC: 51862054401, is identified with a status of "N" per the ODG, *Appendix A*, for the dates of service reviewed in this dispute. Therefore, Butalbital required preauthorization. Review of submitted documents finds no evidence of preauthorization for Butalbital on the disputed dates of service.

The division finds that the insurance carrier's denial of reimbursement for the drug Butalbital, NDC: 51862054401, based on lack of preauthorization, for the disputed dates of service July 21, 2022, and September 13, 2022, is supported.

3. Because the insurance carrier's denial of payment was supported, the division finds that Injured Workers Pharmacy is not entitled to reimbursement.

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 requestor has not established that reimbursement is due.

Order

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

Authorized Signature

July 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. 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.