



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

EZ Scripts, LLC

Respondent Name

Zurich American Insurance Co.

MFDR Tracking Number

M4-23-3297-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

August 25, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
09/26/2022	Diclofenac Sod 1% Gel NDC: 21922-0009-09	\$77.00	\$0.00
09/26/2022	Naproxen 500mg NDC: 50228-0436-05	\$46.75	\$0.00
10/10/2022	Gabapentin 400mg NDC: 71093-0122-05	\$103.75	\$103.75
10/10/2022	Diclofenac Sod 1% Gel NDC: 21922-0009-09	\$77.00	\$0.00
11/10/2022	Naproxen 500mg NDC: 50228-0436-05	\$89.85	\$0.00
11/10/2022	Biofreeze Gel 4% NDC: 59316-0102-12	\$37.02	\$0.00
11/10/2022	Ztildo 1.8% Patch NDC: 69557-0111-30	\$1,175.31	\$0.00
Total		\$1,606.68	\$103.75

Requestor's Position

"Enclosed are the outstanding pharmacy bills from EZ Scripts, which were submitted to Tristar Risk Management in a timely manner after each prescription was filled. Tristar Risk Management denied payment for the medications as not authorized. EZ Scripts is asking that the Division of Workers' Compensation order Tristar Risk Management to pay our outstanding balance."

Amount in Dispute: \$1,606.68

Respondent's Position

"The Requestor did not submit the bill for the 9/26/2022 DOS within 95 days and is not entitled medical fee dispute resolution. The other bills for dates of injury 10/10/2022 and 11/10/2022 were submitted in multiple duplicates and the Carrier's responses are demonstrated by the attached EOBs."

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 §133.20](#) sets out requirements of medical bill submission by health care providers.
3. [28 TAC §134.503](#) sets out the fee guidelines for pharmaceutical services.

Adjustment Reasons

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

- D3 - The charge for the prescription drug is greater than the maximum reimbursement for a generic drug.
- XD – This bill was submitted after the billing timeliness guidelines provided.
- D2 – The charge for the over-the-counter medication exceeds the retail price.
- B13 – The provider has billed for the exact services on a previous bill.
- HEDP – Denied – Duplicate billing/payment already issued for requested services.

Issues

1. Which disputed drugs have been previously reimbursed?
2. Is the requestor entitled to additional reimbursement for the drugs in dispute?

Findings

1. The requestor is seeking reimbursement for the disputed drugs on the disputed dates of service indicated in the table above. A review of the submitted explanation of benefits (EOB) documents finds that the following drugs and dates of service (DOS) have been previously reimbursed:

Drug:	DOS:	EOB Date:	Amount Paid:	Amount Charged:
Diclofenac Sod Gel	09/26/2022	01/06/2023	\$76.94	\$77.00
	10/10/2022	01/13/2023	\$76.94	\$77.00
Naproxen	09/26/2022	01/06/2023	\$46.75	\$46.75
	11/10/2022	01/13/2023	\$89.50	\$89.50
Biofreeze Gel	11/10/2022	01/13/2023	\$29.83	\$37.02
Ztildo Patch	11/10/2022	01/13/2023	\$1,175.31	\$1,175.31

DWC finds no evidence, per submitted documentation, that the drug Gabapentin, dispensed on October 10, 2022, received a payment in any amount.

DWC finds the requestor has been previously reimbursed a total amount of \$1,495.27 for the services in dispute.

2. The requestor is seeking reimbursement in the total amount of \$1,606.68 for disputed drugs dispensed between the dates of September 26, 2022, and November 10, 2022.

As discussed in finding #1 above, the insurance carrier has supported a previous payment for all drugs in dispute except for Gabapentin 400mg, dispensed on October 10, 2022.

DWC finds that the previous payments made for the disputed drugs were for the full charges except for the drug Biofreeze 4% Gel, and Diclofenac Sod Gel, which received a reduced reimbursement. DWC finds that the requestor is not entitled to additional reimbursement for the previously paid drugs Diclofenac Sod Gel, Naproxen, and Ztildo patch. Therefore, only the disputed drugs Gabapentin and Biofreeze 4% Gel will be adjudicated in accordance with the applicable reimbursement guidelines.

Per the submitted EOB dated February 9, 2023, Gabapentin x60 units, dispensed on October 10, 2022, was denied for submission of bill after the billing timeliness guideline. However, the submitted EOB dated January 17, 2023, documents that a duplicate bill was received by the insurance carrier on January 6, 2023. DWC concludes that the original bill for this drug dispensed on October 10, 2022, must have been received by the insurance carrier prior to January 6, 2023.

28 Texas Administrative Code §133.20 which 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."

DWC finds that the medical bill was received by the insurance carrier less than 95 days past the date of service. Therefore, the denial reason of untimeliness of medical bill submission is not supported. DWC finds that the requestor is entitled to reimbursement for the disputed drug Gabapentin dispensed on October 10, 2022.

DWC finds that 28 TAC §134.503(c) applies to the reimbursement of the drugs in dispute, which states, "(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; ..."

The DWC finds that for the generic drug Gabapentin, dispensed on the disputed date of service: AWP per unit = 1.33; units dispensed = 60

The maximum allowable reimbursement (MAR) is calculated according to 28 TAC §134.503 (c) using the formula above:

- Gabapentin 400mg: $(1.33 \text{ AWP} \times 60 \text{ units} \times 1.25) + \$4.00 = \$103.75$ MAR
- DWC finds that the requestor is entitled to reimbursement in the amount of \$103.75 for 60 units of Gabapentin dispensed on the disputed date of service.

The insurance carrier reduced the payment for the drug Biofreeze 4% Gel, dispensed on November 10, 2022, to the amount of \$29.83 per submitted EOB dated January 13, 2023.

DWC finds that 28 TAC §134.503(c), quoted above, applies to the reimbursement of Biofreeze 4% Gel.

DWC finds that for the brand name drug Biofreeze 4% Gel, dispensed on disputed date of service: AWP per unit = 0.13315; units dispensed = 178

The maximum allowable reimbursement (MAR) is calculated according to 28 TAC §134.503(c) using the formula above:

- Biofreeze 4% Gel: $(0.13315 \text{ AWP} \times 178 \text{ units} \times 1.09) + \$4.00 = \$29.83$ MAR
- The insurance carrier previously reimbursed the requestor in the amount of \$29.83, therefore, no additional reimbursement is recommended for the drug Biofreeze 4% Gel, dispensed on disputed date of service.

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 that the requestor has established that additional reimbursement in the amount of \$103.75 is due.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to reimbursement for the disputed services. It is ordered that Zurich American Insurance Co. must remit to EZ Scripts, LLC \$103.75 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

October 10, 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