



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645

(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Memorial Compounding Pharmacy

Respondent Name

Indemnity Insurance Company of North America

MFDR Tracking Number

M4-17-2253-01

Carrier's Austin Representative

Box Number 15

MFDR Date Received

March 27, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The attached bills have been denied not authorized."

Amount in Dispute: \$2,836.01

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Preauthorization was not obtained prior to dispensing and billing of this medication, therefore ESIS will stand on the original denial."

Response Submitted by: ESIS

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Rows include services like Baclofen Compound, Tramadol HCl 50 mg Tablets, Tizanidine HCl 6 mg Capsules, Ketoprofen Powder, Ibuprofen 800 mg Tablets, Tramadol Compound, Lenzapatch 4%-1%, and a Total row.

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

Background

- 1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.502 sets out the procedures for pharmaceutical services.

3. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
4. 28 Texas Administrative Code §134.530 sets out the closed formulary requirements for claims not subject to certified networks.
5. The insurance carrier reduced payment for the disputed services based on preauthorization.

### **Issues**

1. Is Memorial Compounding Pharmacy (Memorial) entitled to reimbursement for the Baclofen compound and Tramadol compound?
2. Is Memorial entitled to reimbursement for Ketoprofen powder?
3. Is the insurance carrier's reason for denial of payment supported for Tramadol HCl 50 mg tablets, Tizanidine 6 mg capsules, and Ibuprofen 800 mg tablets?
4. Is Memorial entitled to reimbursement for this dispute?

### **Findings**

1. Memorial is seeking reimbursement, in part, for a Baclofen compound and Tramadol compound. Compound bills are required to list each drug in the compound, calculating the charge for each drug separately.<sup>1</sup>

The submitted documentation does not support that Memorial listed each drug in the disputed compounds, calculating the charge for each drug separately. Therefore, Memorial is not eligible for reimbursement of the compounds in question.

2. Memorial is also seeking reimbursement for Ketoprofen powder dispensed on June 16, 2016. Review of the documentation submitted to the DWC does not support that a bill for this drug on this date of service was submitted to the insurance carrier. No reimbursement can be recommended for this drug.

3. Memorial is also seeking reimbursement for Tramadol HCl 50 mg tablets, Tizanidine 6 mg capsules, and Ibuprofen 800 mg tablets. The insurance carrier denied the disputed service based on preauthorization. Preauthorization is only required for:

- drugs identified with a status of "N" in the current edition of the ODG Appendix A<sup>2</sup>;
- any compound that contains a drug identified with a status of "N" in the current edition of the ODG Appendix A; and
- any investigational or experimental drug.<sup>3</sup>

The division finds that Tramadol HCl 50 mg tablets, Tizanidine 6 mg capsules, and Ibuprofen 800 mg tablets are not identified with a status of "N" in the applicable edition of the ODG, *Appendix A*. Therefore, these drugs do not require preauthorization per 28 TAC §134.530(b)(2)(A).

The submitted documentation does not support that Tramadol HCl 50 mg tablets, Tizanidine 6 mg capsules, and Ibuprofen 800 mg tablets constitute a compound drug. Therefore, these drugs do not require preauthorization per 28 TAC §134.530(b)(2)(B).

The submitted documentation does not support that Tramadol HCl 50 mg tablets, Tizanidine 6 mg capsules, and Ibuprofen 800 mg tablets are experimental or investigational. Therefore, these drugs do not require preauthorization per 28 TAC §134.530(b)(2)(C).

The DWC concludes that the insurance carrier's denial of payment of Tramadol HCl 50 mg tablets, Tizanidine 6 mg capsules, and Ibuprofen 800 mg tablets is not supported.

4. Because the insurance carrier failed to support its of payment for Tramadol HCl 50 mg tablets, Tizanidine 6 mg capsules, and Ibuprofen 800 mg tablets, Memorial is entitled to reimbursement for these drugs.

---

<sup>1</sup> 28 Texas Administrative Code §134.502(d)(2)

<sup>2</sup> *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary*

<sup>3</sup> 28 Texas Administrative Code §134.540(b)

The reimbursement for the drugs considered in this dispute is calculated as follows<sup>4</sup>:

- Tramadol HCl 50 mg tablets:  $(0.8329 \times 84 \times 1.25) + \$4.00 = \$91.45$
- Tizanidine HCl 6 mg capsules:  $(5.15493 \times 84 \times 1.25) + \$4.00 = \$545.27$   
Memorial is seeking \$490.51 for this drug. This amount is recommended.
- Ibuprofen 800 mg tablets:  $(0.30476 \times 90 \times 1.09) + \$4.00 = \$33.90$

The total reimbursement is therefore \$615.86. This amount is recommended.

**Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$615.86.

**ORDER**

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$615.86, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

**Authorized Signature**

	Laurie Garnes	January 25, 2019
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 in accordance with Rule §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**

<sup>4</sup> 28 Texas Administrative Code §134.503(c)