



TEXAS DEPARTMENT OF INSURANCE

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

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Sentrix Pharmacy & Discount LLC

Respondent Name

Texas Municipal League Intergovernmental Risk Pool

MFDR Tracking Number

M4-17-2629-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

May 8, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "28 TAC §134.530 clearly states that preauthorization is only required for any compound that contains a drug identified with a status of 'N' in the current edition of the ODG Workers' Compensation Drug Formulary. In the case of the claim(s) at issue all of the ingredients are identified with a 'Y' in the February 2017 Drug Formulary ... The Provider is a Pharmacy and does not have office visit notes. The Provider did submit a valid prescription with the bill."

Amount in Dispute: \$1,039.03

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The attached medical records support the Peer Review by Dr. Pennington and EOBs which conclude the cream prescribed (and its separate components) is not medically necessary for any medical condition described ... The requestor did not request and receive preauthorization for this investigational or experimental compound formulation."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: February 20, 2017, Compound Medication, \$1,039.03, \$859.07

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 §133.210 sets out the documentation requirements for medical bills.
2. 28 Texas Administrative Code §133.240 sets out the procedures for payment or denial of a medical bill.
3. 28 Texas Administrative Code §133.305 sets out the procedures for resolving medical disputes.

4. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
5. 28 Texas Administrative Code §134.502 sets out the procedures for pharmaceutical benefits.
6. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
7. 28 Texas Administrative Code §134.530 sets out the closed formulary requirements for claims not subject to certified networks.
8. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 475 – Preauthorization required for ALL N-drugs prescribed on or after 9/1/2013 per 134.530
 - 479 – Missing Office Visit Notes/Orders that support the CPT Code Billed
 - W4 – Services disallowed based on peer review &/or PLN 11
 - W3 – Additional Payment made on Appeal/Reconsideration
 - 482 – Denied for lack of preauthorization/medical necessity for service deemed investigational or experimental.

Issues

1. Is this dispute subject to dismissal based on medical necessity?
2. Is the insurance carrier's reason for denial of payment based on medical documentation supported?
3. Is the insurance carrier's reason for denial of payment based on preauthorization supported?
4. Is Sentrix Pharmacy & Discount LLC (Sentrix) entitled to reimbursement for the compound in question?

Findings

1. Sentrix is seeking reimbursement for a compound dispensed on February 20, 2017. Per explanation of benefits dated May 22, 2017, the insurance carrier denied the compound, in part, based on medical necessity.

Per submitted explanation of benefits dated March 10, 2017, the pharmacy bill was originally received by the insurance carrier on February 24, 2017. The process date for the medical necessity denial is more than 45 days after the date the complete bill was received.¹

The insurance carrier has the obligation to dispute whether a treatment was medically necessary within 45 days after receiving a complete medical bill.² The Texas Department of Insurance, Division of Workers' Compensation (DWC) notes that the insurance carrier failed to present evidence of a denial for medical necessity within 45 days from the date it received the complete pharmacy bill. Therefore, the DWC finds that the dispute in question is not subject to dismissal based on medical necessity.

2. The insurance carrier also denied the disputed compound, in part, based on missing office notes/orders. Documentation is not required to be submitted with pharmacy bill.³ If the insurance carrier requires additional documentation to process the medical bill, the request must:

- be in writing;
- be specific to the bill;
- specifically describe the information to be included in the response;
- be relevant and necessary for the resolution of the bill;
- be for information that is part of the injured employee's medical or billing record maintained by the health care provider, in this case, Memorial Compounding Pharmacy;
- indicate the specific reason for which the insurance carrier is requesting the information; and
- include a copy of the medical bill requiring the documentation.⁴

¹ 28 Texas Administrative Code §133.240(a)

² "A carrier has up to forty-five days from the date it receives a complete medical bill to dispute whether that treatment was necessary." State Office of Risk Management v. Lawton, 295 S.W.3d 646 (Tex. 2009), <https://caselaw.findlaw.com/tx-supreme-court/1388209.html>

³ 28 Texas Administrative Code §133.210(c)

⁴ 28 Texas Administrative Code §133.210(d)

The insurance carrier may request a letter of medical necessity if “the insurance carrier could reasonably support a denial based upon extent of, or relatedness to the compensable injury, or based upon an adverse determination” without the letter of medical necessity.⁵ A request for a letter of medical necessity from the prescribing physician must be copied to the billing party, in this case, Satrix Pharmacy & Discount LLC, when the request is made.

No documentation was found to support that the carrier made an appropriate request for additional documentation or a letter of medical necessity. The DWC concludes that the insurance carrier failed to support this denial reason.

3. The insurance carrier also denied the disputed compound, in part, based on preauthorization. Preauthorization is only required for:

- drugs identified with a status of “N” in the current edition of the ODG Appendix A⁶;
- 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.⁷

The compound in question does not contain an ingredient identified with a status of “N” in the current edition of the ODG, Appendix A.

Flahive, Ogden & Latson, on behalf of the insurance carrier, argued that “The requestor did not request and receive preauthorization for this investigational or experimental compound formulation.”

The determination of a service’s investigational or experimental nature is determined on a case by case basis through utilization review.⁸ Utilization review, includes a prospective, concurrent, or **retrospective review to determine the experimental or investigational nature** of health care services.⁹

Flahive, Ogden & Latson provided **no evidence** that the insurance carrier engaged in a prospective or retrospective utilization review to establish that the specific compound considered in this review is investigational or experimental.

Because the insurance carrier failed to perform utilization review on the disputed compound, the requirement for preauthorization based on a premise that the compound is investigational or experimental **is not triggered** in this case. The insurance carrier’s preauthorization denial is therefore not supported.

4. Because the insurance carrier failed to sufficiently support its denial of reimbursement, Satrix is entitled to reimbursement.

The compound in dispute was billed by listing each drug included in the compound and calculating the charge for each drug separately.¹⁰ Each ingredient is listed below with its reimbursement amount.¹¹ The calculation of the total allowable amount is as follows:

⁵ 28 Texas Administrative Code §134.502(e)

⁶ *ODG Treatment in Workers’ Comp (ODG) / Appendix A, ODG Workers’ Compensation Drug Formulary*

⁷ 28 Texas Administrative Code §134.540(b)

⁸ Texas Insurance Code §19.2005(b)

⁹ Texas Insurance Code §4201.002(13)

¹⁰ 28 Texas Administrative Code §134.502(d)(2)

¹¹ 28 Texas Administrative Code §134.503(c)

Drug	NDC	Generic(G) /Brand(B)	Price /Unit	Units Billed	AWP Formula	Billed Amt	Lesser of AWP and Billed
Salt Stable Base	00395602157	B	\$3.36	85.2	\$312.04	\$286.37	\$286.37
Baclofen	00395803243	G	\$35.63	4.8	\$213.78	\$171.02	\$171.02
Amitriptyline	00395804843	G	\$18.24	2.4	\$54.72	\$43.74	\$43.74
Ketoprofen	00395805643	G	\$10.45	12	\$156.75	\$125.41	\$125.41
Amantadine	00395805843	G	\$24.23	9.6	\$290.70	\$232.53	\$232.53
Gabapentin	Invalid NDC	NA	NA	6	\$0.00	\$179.96	\$0.00
						Total	\$859.07

The total reimbursement is therefore \$859.07. 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 \$859.07.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the DWC has determined the requestor is entitled to additional reimbursement for the disputed services. The DWC hereby ORDERS the respondent to remit to the requestor \$859.07, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

Signature

Laurie Garnes
Medical Fee Dispute Resolution Officer

November 27, 2018
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 DWC 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.