



# 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 and Discount, L.L.C.

**Respondent Name**

Arch Insurance Company

**MFDR Tracking Number**

M4-17-2867-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

May 30, 2017

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "... all ingredients in the compounded medications subject to the claims at issue are included on the closed formulary."

**Amount in Dispute:** \$2,078.06

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "The documentation does not show how this cream and each individual component is related to, appropriate for and medically necessary for the ICD-10 code provided ... For the purposes/conditions prescribed ... and for topical application, this compound is considered *investigational* under the ODG ... Such compounded prescriptions required a request for preauthorization, and evidence-base scientific analysis and approval by the Respondent's Utilization Review Agent because this use and form of these drugs and medium are investigational."

**Response Submitted by:** Flahive, Ogden & Latson

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 8, 2017	Pharmacy Services – Compound	\$2,078.06	\$1,718.06

#### 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.

#### **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 benefits.
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. Texas Insurance Code, Chapter 4201 provides requirements related to utilization review.
6. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 197 – Payment denied/reduced for absence of precertification/authorization.
  - W3 – Additional payment made on appeal/reconsideration.
  - 193 – Original payment is being maintained. Upon review, it was determined that this claim was processed properly.

### Issues

1. Did Arch Insurance Company raise a new defense in its position statement?
2. Is the Arch Insurance Company's reason for denial of payment supported?
3. Is Sentrix Pharmacy and Discount, L.L.C. (Sentrix) entitled to reimbursement of the disputed compound?

### Findings

1. Sentrix is seeking reimbursement for a compound dispensed on March 8, 2017. In its position statement, Flahive, Ogden & Latson argued on behalf of the insurance carrier, "The documentation does not show how this cream and each individual component is related to, appropriate for and medically necessary for the ICD-10 code provided"

The insurance carrier is required to address only those issues raised before the request for medical fee dispute resolution (MFDR) in its position statement.<sup>1</sup>

Review of the submitted documentation finds that Arch Insurance Company failed to present a denial based on relatedness or medical necessity to Sentrix<sup>2</sup> before the date that a request for MFDR was filed.

The division concludes that this defense presented in the insurance carrier's position statement shall not be considered for review because this assertion constitutes a new defense.

2. Arch Insurance Company denied the compound with claim adjustment reason code 197 – "PAYMENT DENIED/REDUCED FOR ABSENCE OF PRECERTIFICATION/AUTHORIZATION."

Preauthorization is **only** required for:

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

The division finds that the compound in question does not include a drug identified with a status of "N".

Flahive, Ogden & Latson argued on behalf of the insurance carrier that "For the purposes/conditions prescribed ... and for topical application, this compound is considered *investigational* under the ODG."

The determination of a service's investigational or experimental nature is not subject to the *Official Disability Guidelines* (ODG). Instead, it is determined on a case by case basis as a utilization review. Utilization review includes a system for retrospective review to determine the experimental or investigational status of a service.<sup>4</sup>

The division found **no evidence** that Arch Insurance Company engaged in a prospective or retrospective utilization review (UR) in order to establish that the following compound in question is investigational or experimental in nature.

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<sup>1</sup> 28 Texas Administrative Code §133.307(d)(2)(F)

<sup>2</sup> 28 Texas Administrative Code §133.240

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

<sup>4</sup> Texas Insurance Code §4201.002

Because Arch Insurance Company failed to perform UR on the above listed compound, the requirement for preauthorization based on an experimental or investigational service **is not triggered** in this case. Arch Insurance Company's preauthorization denial is therefore not supported.

- Because the insurance carrier's denial reasons are not supported, the compound in question is eligible for reimbursement in accordance with applicable rules and laws.

The compound in question was submitted with the following ingredients:

- Salt Stable LS Base, NDC 00395602157, \$572.54
- Baclofen, NDC 00395803243, \$342.05
- Amitriptyline, NDC 00395804843, \$87.55
- Ketoprofen, NDC 00395805643, \$250.80
- Amantadine, NDC 00395805843, \$465.12
- Gabapentin, NDC 10695003507, \$360.00

The division finds that NDC 10695003507 is not a valid National Drug Code (NDC).<sup>5</sup> Therefore, this ingredient will not be considered for reimbursement.

The compound in dispute was billed by listing each drug included in the compound and calculating the charge for each drug separately.<sup>6</sup> Each ingredient is listed below with its reimbursement amount.<sup>7</sup> The calculation of the total allowable amount is as follows:

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	170.4	\$624.07	\$572.54	\$572.54
Baclofen	00395803243	G	\$35.63	9.6	\$427.56	\$342.05	\$342.05
Amitriptyline	00395804843	G	\$18.24	4.8	\$109.44	\$87.55	\$87.55
Ketoprofen	00395805643	G	\$10.45	24	\$313.50	\$250.80	\$250.80
Amantadine	00395805843	G	\$24.23	19.2	\$581.40	\$465.12	\$465.12
Gabapentin	Invalid NDC	NA	NA	12	\$0.00	\$360.00	\$0.00
						<b>Total</b>	<b>\$1,718.06</b>

The total allowable reimbursement for the compound in dispute is \$1,718.06. 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 \$1,718.06.

***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 \$1,718.06, 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

\_\_\_\_\_  
August 2, 2018  
Date

<sup>5</sup> 28 Texas Administrative Code §134.502(d)(1)  
<sup>6</sup> 28 Texas Administrative Code §134.502(d)(2)  
<sup>7</sup> 28 Texas Administrative Code §134.503(c)

### ***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.**