



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

Sentry Casualty Company

MFDR Tracking Number

M4-17-3144-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

June 23, 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) as issue, all of the ingredients are identified with a 'Y' in the January 2017 Drug Formulary or not listed at all. As demonstrated by the enclosed documentation, all ingredients in the compounded medications subject to the claims at issue are included on the closed formulary."

Amount in Dispute: \$12,050.06

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "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: January 13, 2017, Pharmacy Services – Compound, \$12,050.06, \$12,050.06

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 §133.240 sets out the procedures for payment or denial of a medical bill.
3. 28 Texas Administrative Code §134.502 sets out the procedures for pharmaceutical benefits.
4. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
5. 28 Texas Administrative Code §134.530 sets out the closed formulary requirements for claims not subject to

certified networks.

6. 28 Texas Administrative Code Chapter 19 sets out the procedures for utilization review.
7. Texas Insurance Code, Chapter 4201 provides requirements related to utilization review.
8. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 197 – Precertification/authorization/notification absent.
 - 50 – These are non-covered services because this is not deemed a medical necessity by the payer.

Issues

1. Is the insurance carrier’s denial of payment for medical necessity supported?
2. Is the insurance carrier’s denial of payment for preauthorization supported?
3. Is Sentrix Pharmacy and Discount, L.L.C. (Sentrix) entitled to reimbursement of the disputed services?

Findings

1. Sentrix is seeking reimbursement of \$12,050.06 for a compound dispensed on January 13, 2017, consisting of the following ingredients:

Compound Cream in Dispute	
Ingredient	Amount
Sanare Gel	214.8 gm
Propylene Glycol	14.4 ml
Pentoxifylline 0.5%	1.2 gm
Tranilast 1%	2.4 gm
Fluticasone Propionate 1%	2.4 gm
Levocetirizine Dihydrochloride 2%	4.8 gm

Sentry Casualty Company (Sentry) denied the disputed compound, in part, with claim adjustment reason code 50 – “These are non-covered services because this is not deemed a medical necessity by the payer.” 28 Texas Administrative Code §133.240(q) states:

When denying payment due to an adverse determination under this section, the insurance carrier shall comply with the requirements of §19.2009 of this title ... Additionally, in any instance where the insurance carrier is questioning the medical necessity or appropriateness of the health care services, the insurance carrier shall comply with the requirements of §19.2010 of this title ..., including the requirement that prior to issuance of an adverse determination the insurance carrier shall afford the health care provider a reasonable opportunity to discuss the billed health care with a doctor or, in cases of a dental plan or chiropractic services, with a dentist or chiropractor, respectively.

Review of the documentation submitted by Flahive, Ogden & Latson on behalf of Sentry finds a document labeled Medication Utilization Assessment and dated July 7, 2017. The division finds that the submitted documentation does not support that retrospective utilization review of the disputed compound in question was conducted with the specificity required by 28 Texas Administrative Code §19.2009. Therefore, the review was not conducted in accordance 28 Texas Administrative Code §133.240. Sentry’s denial for this reason is not sufficiently supported.

2. Sentry also denied the disputed compound, in part, with claim adjustment reason code 50 – “Precertification/authorization/notification absent.” 28 Texas Administrative Code §134.530(b)(1) states that 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 compound 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; and

- (C) 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).

Provision §134.530(b)(1)(A) preauthorization requirement is not discussed in this dispute because it was not asserted by either party and is not applicable to the compound in question.

While not asserted by Flahive, Ogden & Latson, Sentrix was not required to seek preauthorization pursuant to §134.530(b)(1)(B) because none of the compounded ingredients have a status of "N" in the current edition of the ODG/Appendix A.

Flahive, Ogden & Latson argued that “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 pursuant to Texas Insurance Code §4201.002. Further, Texas Insurance Code §4201.002(13) states that utilization review, in relevant part, “includes a system for prospective, concurrent, or retrospective review to determine the experimental or investigational nature of health care services.”

The division found **no evidence** that Sentry engaged in a prospective or retrospective utilization review (UR) as required by Texas Insurance Code §4201.002 in order to establish that the compound in question is investigational or experimental in nature.

Because Sentry failed to perform UR on the above listed compound, the requirement for preauthorization under §134.530(b)(1)(C) **is not triggered** in this case. Sentry’s preauthorization denial is therefore not supported.

Absent any evidence that Sentry presented other defenses to Sentrix before medical fee dispute resolution that conform with the requirements of Title 28, Part 2, Chapter 133, Subchapter C, the division finds that the compounds in question are eligible for reimbursement.

- 3. 28 Texas Administrative Code §134.503 applies to the services in dispute and states, in pertinent part:
 - (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: $((AWP \text{ per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (B) Brand name drugs: $((AWP \text{ per unit}) \times (\text{number of units}) \times 1.09) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection; or
 - (2) notwithstanding §133.20(e)(1) of this title (relating to Medical Bill Submission by Health Care Provider), the amount billed to the insurance carrier by the:
 - (A) health care provider; or
 - (B) pharmacy processing agent only if the health care provider has not previously billed the insurance carrier for the prescription drug and the pharmacy processing agent is billing on behalf of the health care provider.

The compounds in dispute were billed by listing each drug included in the compound and calculating the charge for each drug separately as required by 28 Texas Administrative Code §134.502(d)(2). Reimbursement is calculated as follows:

Ingredient	NDC & Type	Price/Unit	Total Units	AWP Formula §134.503(c)(1)	Billed Amt §134.503 (c)(2)	Lesser of (c)(1) and (c)(2)
Sanare Gel	00395701159 Generic	\$12.15	214.8 gm	\$3,262.28	\$2,610.04	\$2,610.04
Propylene Glycol	38779051001 Generic	\$0.19	14.4 ml	\$3.42	\$2.41	\$2.41
Pentoxifylline 0.5%	38779256008 Generic	\$8.284	1.2 gm	\$12.43	\$9.64	\$9.64
Tranilast 1%	5237207702 Generic	\$10.15	2.4 gm	\$30.45	\$24.10	\$24.10
Fluticasone Propionate 1%	58597827604 Generic	\$3,750.00	2.4 gm	\$11,250.00	\$9,000.19	\$9,000.19
Levocetirizine Dihydrochloride 2%	58597835506 Generic	\$84.00	4.8 gm	\$504.00	\$403.68	\$403.68
NA	NA	NA	NA	\$15.00 fee	\$0.00	\$0.00
					Total	\$12,050.06

The total allowable reimbursement for the compound in dispute is \$12,050.06. 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 \$12,050.06.

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 \$12,050.06, 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

December 8, 2017
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.