



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

Memorial Compounding Pharmacy

Respondent Name

New Hampshire Insurance Company

MFDR Tracking Number

M4-18-1801-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

February 2, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "These medications due not require preauthorization therefore do not need a retrospective review."

Amount in Dispute: \$132.46

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "... this new corrected bill was submitted more than 95 days after the Date of Service ... The Requestor did not request and receive preauthorization for this investigational or experimental compound formulation (assuming this is a compound)."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 3, 2017	Tramadol HCl 50 mg tablets	\$132.46	\$97.70

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

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §134.502 sets out the procedures for pharmaceutical benefits.
- 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
- 28 Texas Administrative Code §134.530 sets out the closed formulary requirements for claims not subject to certified networks.
- The insurance carrier reduced payment for the disputed drug based on the absence of preauthorization.

Issues

1. What is the service considered in this dispute review?
2. Did the insurance carrier raise a new defense in its response?
3. Is the insurance carrier's denial of payment based on preauthorization supported?
4. Is Memorial Compounding Pharmacy (Memorial) entitled to reimbursement for the drugs in question?

Findings

1. According to the Medical Fee Dispute Resolution Request (DWC060), Memorial is seeking reimbursement for Tramadol HCl 50 mg tablets dispensed on May 3, 2017. No other services are considered in this review.
2. In its position statement, Flahive, Ogden & Latson argued on behalf of the insurance carrier that "this new corrected bill was submitted more than 95 days after the Date of Service."

The response from the insurance carrier is required to address only the denial reasons presented to the requestor the request for medical fee dispute resolution (MFDR) was filed with the Texas Department of Insurance, Division of Workers' Compensation (DWC). Any new denial reasons or defenses raised shall not be considered in this review.¹

The submitted documentation does not support that a denial based on timely filing was provided to Memorial before this request for MFDR was filed. Therefore, the DWC will not consider this argument in the current dispute review.

3. The insurance carrier denied the disputed drug based on preauthorization. Preauthorization is only required for:
 - drugs identified with a status of "N" in the current edition of the ODG Appendix A²;
 - 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.³

The drug in question is not 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 (assuming this is a compound)."

The DWC finds no documentation to support an assumption that the drug reviewed in this dispute was part of a compound. However, the determination of a service's investigational or experimental nature is determined on a case by case basis through utilization review.⁴ Utilization review, includes a prospective, concurrent, or **retrospective review to determine the experimental or investigational nature** of health care services.⁵

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

Because the insurance carrier failed to perform utilization review on the disputed drug, the requirement for preauthorization based on a premise that it 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, Memorial is entitled to reimbursement.

¹ 28 Texas Administrative Code §133.307(d)(2)(F)

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

³ 28 Texas Administrative Code §134.540(b)

⁴ Texas Insurance Code §19.2005(b)

⁵ Texas Insurance Code §4201.002(13)

The DWC finds that reimbursement is calculated as follows:

- Tramadol HCl 50 mg tablets: $(0.83289 \times 90 \times 1.25) + \$4.00 = \$97.70$

The total allowable reimbursement is \$97.70. 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 \$97.70.

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 \$97.70, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

	Laurie Garnes	December 7, 2018
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.