



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 Compound Pharmacy

Respondent Name

American Casualty Company of Reading Pennsylvania

MFDR Tracking Number

M4-18-2366-01

Carrier's Austin Representative

Box Number 57

MFDR Date Received

March 5, 2018

REQUESTOR'S POSITION SUMMARY

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

Amount in Dispute: \$566.53

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Compound medications constitute a new, non-approved and non-recognized drug and is considered investigational/experimental. Because the compound medication was investigation or experimental in nature and was not accepted as the prevailing standard of care, it required preauthorization."

Response Submitted by: Brian J. Judis

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 28, 2017	Pharmacy Services - Compounds	\$566.53	\$566.53

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 §134.540 sets out the closed formulary requirements for claims subject to certified networks.
- 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 – Precertification/authorization/notification absent.
 - Notes: “This medication has been identified as a compound drug. As an investigational or experimental drug under Texas Labor Code 413.014(a), this medication requires preauthorization prior to fulfillment.”
 - 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
 - Notes: “We are unable to recommend an additional allowance since this claim was paid in accordance with the state’s fee schedule guidelines. First Health Bill Review’s usual and customary policies, and/or was reviewed in accordance with the provider’s contract with First Health.”

Issues

1. Is the insurance carrier’s reason for denial of payment supported?
2. Is Memorial Compounding Pharmacy (Memorial) entitled to reimbursement of the disputed services?

Findings

1. Memorial is seeking reimbursement for a compound dispensed on August 28, 2017. The insurance carrier denied the disputed service with claim adjustment reason code 197 – “Precertification/authorization/notification absent,” with additional notes: “This medication has been identified as a compound drug. As an investigational or experimental drug under Texas Labor Code 413.014(a), this medication requires preauthorization prior to fulfillment.”

Preauthorization is **only** required for:

- drugs identified with a status of “N” in the current edition ODG/Appendix A,
- 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.¹

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

Brian J. Judis argued on behalf of the insurance carrier that “Because the compound medication was investigation or experimental in nature and was not accepted as the prevailing standard of care, it required preauthorization.”

Determination of a service’s investigational or experimental nature is made on a case by case basis as a utilization review (UR).²

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

Compound Cream in Dispute	
Ingredient	Amount
Meloxicam	0.18 gm
Flurbiprofen	4.8 gm
Tramadol HCl	6.0 gm
Cyclobenzaprine HCl	1.8 gm
Bupivacaine HCl	1.2 gm

Because the insurance carrier failed to perform UR on the above listed compound, the requirement for preauthorization based on the allegation that it is experimental or investigational **is not triggered** in this case. The insurance carrier’s preauthorization denial is not supported.

¹ 28 Texas Administrative Code §134.540(b)

² Texas Insurance Code §4201.002

2. Because the insurance carrier's denial reasons are not supported, the compound in question is eligible for reimbursement.

The compound in dispute was billed by listing each drug included in the compound and calculating the charge for each drug separately.³ Each ingredient is listed below with its reimbursement amount.⁴ 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
Meloxicam	38779274601	G	\$194.67	0.18	\$43.80	\$35.04	\$35.04
Flurbiprofen	38779036209	G	\$36.58	4.8	\$219.48	\$175.58	\$175.58
Tramadol	38779237409	G	\$36.30	6	\$272.25	\$217.80	\$217.80
Cyclobenzaprine	38779039509	G	\$46.33	1.8	\$104.25	\$83.39	\$83.39
Bupivacaine	38779052405	G	\$45.60	1.2	\$68.40	\$54.72	\$54.72
						Total	\$566.53

The total reimbursement is therefore \$566.53. This amount is recommended.

Conclusion

The outcome of each independent medical fee dispute relies upon the relevant evidence presented by the requestor and the respondent at the time of adjudication. Though all the evidence in this dispute may not have been discussed, it was considered. For the reasons stated above, the Division finds that the requestor has established that reimbursement is due. As a result, the amount ordered is \$566.53.

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 \$566.53, 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

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.

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

⁴ 28 Texas Administrative Code §134.503(c)