



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

M4-18-2392-01

Carrier's Austin Representative

Box Number 19

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: \$177.06

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

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 10, 2017	Acetaminophen/Codeine #4 Tablets	\$90.61	\$45.39
August 10, 2017	Methocarbamol 500 mg Tablets	\$86.45	\$40.19
Total		\$177.06	\$85.58

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 denied payment based on the absence of preauthorization.

Issues

1. Did the insurance carrier raise a new defense in its response?
2. Is the insurance carrier's reason for denial of payment supported?
3. Is Memorial Compounding Pharmacy (Memorial) entitled to reimbursement for the drugs in question?

Findings

1. In its position statement, Flahive, Ogden & Latson, on behalf of the insurance carrier, argued that "one ground of denial raised by the Carrier was extent of injury."

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.

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

2. Memorial is seeking reimbursement for Acetaminophen/Codeine #4 tablets and Methocarbamol 500 mg tablets dispensed on August 10, 2017. The insurance carrier denied the disputed drugs based on preauthorization. Preauthorization is only required for:

- drugs identified with a status of "N" in the current edition of the ODG Appendix A¹;
- 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.²

The drugs in question are 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 compounded medications as a class require a request for preauthorization because they are experimental or investigational. There is no indication in the submitted documentation that the drugs in this dispute are compounded medications.

The determination of a service's investigational or experimental nature is determined on a case by case basis through utilization review.³ Utilization review, includes a prospective, concurrent, or **retrospective review to determine the experimental or investigational nature** of health care services.⁴

Flahive, Ogden & Latson provided **no evidence** that the insurance carrier engaged in a prospective or retrospective utilization review to establish that Acetaminophen/Codeine #4 tablets and Methocarbamol 500 mg tablets are investigational or experimental.

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

3. Because the insurance carrier failed to sufficiently support its denial of reimbursement, Memorial is entitled to reimbursement. The reimbursement is calculated as follows⁵:

- Acetaminophen/Codeine #4 tablets: $(0.55186 \times 60 \times 1.25) + \$4.00 = \$45.39$
- Methocarbamol 500 mg tablets: $(0.4825 \times 60 \times 1.25) + \$4.00 = \$40.19$

The total allowable reimbursement amount is \$85.58. This amount is recommended.

¹ ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary

² 28 Texas Administrative Code §134.540(b)

³ Texas Insurance Code §19.2005(b)

⁴ Texas Insurance Code §4201.002(13)

⁵ 28 Texas Administrative Code §134.503(c)

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 \$85.58.

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 \$85.58, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

	Laurie Garnes	October 24, 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.