



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

M4-18-2422-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

March 6, 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: \$291.08

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Pursuant to the explanation of benefits, the carrier denied payment for these prescriptions due to utilization review dated 9/13/17 finding the medication Tramadol-Acetaminophen dispensed on 8/2/17 not medically necessary, missing authorization."

Response Submitted by: The Silvera Firm

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 2, 2017	Meloxicam 15 mg Tablets	\$202.85	\$0.00
August 2, 2017	Tramadol-Acetaminophen 37.5-ITP	\$88.23	\$42.41

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 §133.240 sets out the requirements for payment, reduction, or denial of medical bills.
- 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.

6. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 790/P12 – Workers’ compensation jurisdictional fee schedule adjustment.
 - 932/15 – The authorization number is missing, invalid, or does not apply to the billed services or provider.

Issues

1. Did the insurance carrier raise a new defense in its position statement?
2. Is the insurance carrier’s denial of payment based on preauthorization supported?
3. Is Memorial Compounding Pharmacy (Memorial) entitled to additional reimbursement for Meloxicam 15 mg tablets?
4. Is Memorial entitled to additional reimbursement for Tramadol-Acetaminophen 37.5-ITP.

Findings

1. Memorial is seeking reimbursement for Meloxicam 15 mg tablets and Tramadol-Acetaminophen 37.5-ITP dispensed on August 2, 2017. In its position statement, the Silvera Firm argued on behalf of New Hampshire Insurance Company, that the drugs in dispute were not medically necessary based on retrospective review.

The insurance carrier may only address denial reasons raised before the request for medical fee dispute resolution (MFDR) was requested. Any other issues raised in the response will not be considered.¹

The documents submitted to the Texas Department of Insurance, Division of Workers’ Compensation (DWC) do not show that the insurance carrier gave denial reasons related to medical necessity to Memorial before the date the request for MFDR was filed.² The DWC concludes that this argument in the Silvera Firm’s position statement will not be considered for review because it is a new defense.

2. New Hampshire Insurance Company denied payment of Tramadol-Acetaminophen 37.5-ITP based on lack of preauthorization. Preauthorization is only required for:
 - drugs identified with a status of “N” in the current edition of the 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.³

The DWC finds that Tramadol-Acetaminophen 37.5-ITP is not identified with a status of “N” in the current edition of the ODG, Appendix A. The insurance carrier failed to raise any other arguments to support its denial based on preauthorization. Therefore, the DWC concludes that this drug did not require preauthorization and the insurance carrier’s denial of payment for this reason is not supported.

3. The insurance carrier reduced the billed amount of Meloxicam 15 mg tablets to a payment of \$185.69, citing the workers’ compensation fee schedule as its reason for the reduction.

The insurance carrier is required to reimburse the lesser of:

- the fee established by the DWC’s formula 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; or
- the amount billed to the insurance carrier.⁴

Memorial is requesting reimbursement in the amount of its full billed amount of \$202.85 for Meloxicam 15 mg tablets. Memorial has the burden to support its request for this amount. In its original position statement, Memorial did not demonstrate how it arrived at the requested amount. After notification by the DWC’s medical fee dispute resolution program of the insurance carrier’s response and payment, Memorial

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

² 28 Texas Administrative Code §133.240 explains how the insurance carrier is required to introduce denials and payment reductions to the requestor.

³ 28 Texas Administrative Code §134.530(b)(2)

⁴ 28 Texas Administrative Code §134.503(c)

did not take the opportunity to refute the insurance carrier's payment calculation. For that reason, the DWC moves to resolve the dispute for this drug with the information available and concludes that no additional reimbursement can be recommended.

4. Because the insurance carrier failed to support its denial of reimbursement, Memorial is entitled to reimbursement in accordance with applicable rules and laws. The division finds that the reimbursement for the disputed drugs is calculated as follows⁵:

- Tramadol-Acetaminophen 37.5-ITP: $(1.02436 \times 30 \times 1.25) + \$4.00 = \$42.41$

The total allowable reimbursement amount is \$42.41. 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 \$42.41.

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 \$42.41, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

_____	_____ Laurie Garnes _____	_____ September 28, 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.

⁵ 28 Texas Administrative Code §134.503(c)(1)