



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

Hartford Accident & Indemnity Company

MFDR Tracking Number

M4-18-2689-01

Carrier's Austin Representative

Box Number 47

MFDR Date Received

March 26, 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: "The requested CMPD: meloxicam, flurbiprofen, tramadol, cyclobenzaprine, bupivacaine; quantity 14 for 5 day supply, refills 0 is *non-certified*."

Response Submitted by: The Hartford

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 28, 2017	Pharmaceutical Compound	\$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 §133.240 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.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 75
 - P2 – Not a work related injury/illness and thus not the liability of the workers' compensation carrier.

Issues

1. Is this dispute subject to dismissal based on compensability?
2. Did the insurance carrier raise a new defense in its position statement?
3. Is the insurance carrier's denial of payment based on lack of preauthorization supported?
4. Is Memorial Compounding Pharmacy (Memorial) entitled to additional reimbursement?

Findings

1. Memorial is seeking reimbursement for a compound dispensed on August 28, 2017. Per submitted explanation of benefits dated September 13, 2017, the pharmacy bill was originally received by Hartford Accident & Indemnity Company (Hartford) on or before this date.

On explanation of Benefits dated January 27, 2018, submitted by Harford denied the compound based on compensability. This date is more than 45 days after the date the original complete bill was received.¹

The insurance carrier has the obligation to dispute whether a treatment was compensable within 45 days after receiving a complete medical bill.² The Texas Department of Insurance, Division of Workers' Compensation (DWC) notes that Hartford failed to present a denial for compensability within 45 days from the date it received the complete pharmacy bill. Therefore, the DWC finds that this dispute is not subject to dismissal based on this denial reason.

2. In its position statement, the insurance carrier argued, "The requested CMPD: meloxicam, flurbiprofen, tramadol, cyclobenzaprine, bupivacaine; quantity 14 for 5 day supply, refills 0 is *non-certified*."

The dispute response is required to address only those issues raised before the request for medical fee dispute resolution (MFDR).³

Submitted documentation fails to support that the insurance carrier presented a medical necessity denial to Memorial⁴ before the date that a request for MFDR was filed. DWC finds that this defense raised in Hartford's position statement constitutes a new defense. This new defense shall not be considered for review.

3. Hartford also denied the disputed compound 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.⁵

The compound in question does not include a drug identified with a status of "N" in the current edition of the ODG, Appendix A. Hartford failed to raise any other arguments to support its denial based on preauthorization. Therefore, DWC concludes that the compound in question did not require preauthorization and Hartford's denial of payment for this reason is not supported.

4. Because Hartford failed to support its denial of reimbursement, Memorial is entitled to reimbursement in accordance with applicable rules and laws.

¹ 28 Texas Administrative Code §133.240(a)

² "A carrier has up to forty-five days from the date it receives a complete medical bill to dispute whether that treatment was necessary." State Office of Risk Management v. Lawton, 295 S.W.3d 646 (Tex. 2009), <https://caselaw.findlaw.com/tx-supreme-court/1388209.html>

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

⁴ 28 Texas Administrative Code §133.240

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

The compound in dispute was billed by listing each drug included in the compound and calculating the charge for each drug separately.⁶ Each ingredient is listed below with its reimbursement amount.⁷ 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

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 \$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

September 28, 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 prefriere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.

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

⁷ 28 Texas Administrative Code §134.503(c)