



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

City of Houston

MFDR Tracking Number

M4-18-3921-01

Carrier's Austin Representative

Box Number 29

MFDR Date Received

June 12, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Bill for date of service 10/11/2017 was denied indicating lack of preauthorization or preauthorization was absent. These medications do not require preauthorization therefore do not need a retrospective review."

Amount in Dispute: \$494.44

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Requestor has not shown that it is entitled to payment for the services in dispute or that it timely billed Respondent for the services in dispute."

Response Submitted by: Stone Loughlin Swanson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
October 11, 2017	Compound Medication	\$494.44	\$494.44

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 services with the following claim adjustment codes:
 - Notes: "Processed as a Reconsideration"

- 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- 1014 – The attached billing has been re-evaluated at the request of the provider. Based on this re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted.

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 compound in question?

Findings

1. Memorial is seeking reimbursement for a compound dispensed on October 11, 2017. In its position statement, Stone Loughlin Swanson, on behalf of the insurance carrier, argued that the requestor failed to provide evidence "that it timely billed Respondent for the services in dispute."

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).¹ 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 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.

2. The position statement submitted by Memorial indicates that an explanation of benefits was received denying the compound in question based on preauthorization. An explanation of benefits dated May 2, 2018 upholds a previous denial of payment. 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 compound in question does not contain an ingredient identified with a status of "N" in the current edition of the ODG, Appendix A.

The determination of a service's investigational or experimental nature is determined on a case by case basis through utilization review.⁴ Stone Loughlin Swanson provided no evidence that the insurance carrier engaged in a prospective or retrospective utilization review to establish that the specific compound considered in this review is investigational or experimental. 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 compound in dispute was billed by listing each drug included in the compound and calculating the charge for each drug separately.⁵ Each ingredient is listed below with its reimbursement amount.⁶ The calculation of the total allowable amount is as follows:

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

⁶ 28 Texas Administrative Code §134.503(c)

Drug	NDC	Generic(G) /Brand(B)	Price /Unit	Units Billed	AWP Formula	Billed Amt	Lesser of AWP and Billed
Baclofen	38779038809	G	\$35.63	3	\$133.61	\$102.60	\$102.60
Mefenamic Acid	38779066906	G	\$123.60	1.8	\$278.10	\$146.90	\$146.90
Flurbiprofen	38779036209	G	\$36.58	6	\$274.35	\$210.90	\$210.90
Meloxicam	38779274601	G	\$194.67	0.18	\$43.80	\$35.04	\$35.04
						Total	\$495.44

The total allowable for the disputed compound is \$495.44. Memorial is seeking \$494.44. 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 \$494.44.

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 \$494.44, 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

October 26, 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.