

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Memorial Compounding Rx

Respondent Name

New Hampshire Insurance Co.

MFDR Tracking Number

M4-18-4282

Carrier's Austin Representative

Box Number 19

DWC Date Received

July 12, 2018

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
November 30, 2017	Pharmaceutical Compound	\$566.53	\$566.53

Requestor's Position

Memorial Compounding Pharmacy has met the requirements to receive reimbursement.

Amount in Dispute: \$566.53

Respondent's Position

Although in violation of the agreed-upon medication management/treatment plan, in the report of his first visit with the injured employee on 11/28/17, Dr. Nash states his intent for an unauthorized trial of a topical cream ... The Requestor did not request and receive preauthorization for this investigational or experimental compound formulation.

Response Submitted by: Flahive, Ogden & Latson

Findings and Decision

Authority

This medical fee dispute is decided according to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

Statutes and Rules

1. 28 Texas Administrative Code, Chapter 19 sets out the requirements for utilization review.
2. 28 TAC §133.240 sets out the procedures for payment and denial of medical bills.
3. 28 TAC §133.307 sets out the procedures for resolving medical fee disputes.
4. 28 TAC §134.502 sets out the procedures for pharmaceutical services.
5. 28 TAC §134.503 sets out the fee guidelines for pharmaceutical services.
6. 28 TAC §§134.530 and 134.540, effective January 17, 2011, set out the requirements for preauthorization of pharmaceutical services.

Denial Reasons

The insurance carrier denied the payment for the disputed services with the following claim adjustment codes:

- 198 – Precertification/authorization exceeded.
- 50 – These are non-covered services because this is not deemed a 'medical necessity' by the payer.
- 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

Issues

1. Is New Hampshire Insurance Co.'s denial based on preauthorization supported?
2. Is Memorial Compounding Rx (Memorial) entitled to additional reimbursement?

Findings

1. Memorial is seeking reimbursement for a compound drug dispensed on November 30, 2017. New Hampshire Insurance Co. denied payment, in part, based on medical necessity.

Medical necessity disputes must be resolved prior to submission of a medical fee dispute. The insurance carrier is required to perform a utilization review before a denial based on medical necessity, including giving the health care provider – in this case, Memorial – an opportunity to discuss the treatment in question.

The respondent is required to submit documentation to support a denial based on lack of medical necessity in accordance with 28 TAC §133.307 (d)(2)(I). 2. New Hampshire Insurance Co. provided no evidence to support that it performed a utilization review on the compound in question to determine medical necessity, as required by 28 TAC §§134.240 and 19.2009.

This denial reason is not supported. Therefore, this dispute is not subject to dismissal based on medical necessity.

2. New Hampshire Insurance Co. also denied payment based on preauthorization. Per 28 TAC §§134.530 and 134.540, effective January 17, 2011, 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.

The compound in question does not contain an ingredient identified with a status of “N” in the current edition of the ODG, Appendix A.

Flahive, Ogden & Latson, on behalf of New Hampshire Insurance Co., argued that “The Requestor did not request and receive preauthorization for this investigational or experimental compound formulation.”

According to 28 TAC §19.2005 (b) the determination of a service’s investigational or experimental nature is determined on a case by case basis through utilization review. Utilization review, includes a prospective, concurrent, or retrospective review to determine the experimental or investigational nature of health care services.

Flahive, Ogden & Latson 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.

Because the insurance carrier failed to perform utilization review on the disputed compound, the requirement for preauthorization based on a premise that the compound is 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 compound in dispute was billed by listing each drug included in the compound and calculating the charge for each drug separately as required by 28 TAC §134.502 (d)(2). Each ingredient is listed below with its reimbursement amount. The calculation of the total allowable amount as determined according to 28 TAC §134.502 (d)(2) 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 this medical fee dispute is based on the evidence presented by the requestor and the respondent at the time of adjudication. Though all evidence may not have been discussed, it was considered.

DWC finds the requester has established that additional reimbursement of \$566.53 is due.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to additional reimbursement for the disputed services. It is ordered that New Hampshire Insurance Co. must remit to Memorial Compounding Rx \$566.53 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

July 27, 2022

Date

Your Right to Appeal

Either party to this medical fee dispute has a right to seek review of this decision under 28 TAC §133.307, which applies to disputes filed on or after **June 1, 2012**.

A party seeking review must submit DWC Form-045M, *Request to Schedule, Reschedule, or Cancel a Benefit Review Conference to Appeal a Medical Fee Dispute Decision (BRC-MFD)* and follow the instructions on the form. You can find the form at www.tdi.texas.gov/forms/form20numeric.html. DWC must receive the request within **20 days** of when you receive this decision. You may fax, mail, or personally deliver your request to DWC using the contact information on the form or the field office handling the claim. If you have questions about DWC Form-045M, please call CompConnection at 1-800-252-7031, option 3 or email CompConnection@tdi.texas.gov.

The party seeking review of the MFDR decision must deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with DWC. **Please include a**

copy of the *Medical Fee Dispute Resolution Findings and Decision* with any other required information listed in 28 TAC §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 1-800-252-7031, opción 3 o correo electrónico CompConnection@tdi.texas.gov.