



# 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**

TX Municipal League Intergovernmental Risk Pool

**MFDR Tracking Number**

M4-18-4585-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

July 31, 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:** "This bill was denied based upon the failure to provide a letter of medical necessity and other information necessary for review of these bills."

**Response Submitted by:** Flahive, Ogden & Latson

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
November 28, 2017	Compound Medication	\$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 procedures for payment or denial of a medical bill.
- 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:
  - 16 – Please submit letter of medical necessity form prescribing doctor
  - Claim/service lacks information or has submission/billing error(s) which is needed for adjudication.

- 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- W3 – Additional Payment made on Appeal/Reconsideration
- Denied per peer review

### **Issues**

1. Is the insurance carrier’s denial of payment based on preauthorization supported?
2. Is this dispute subject to dismissal based on medical necessity?
3. Is the insurance carrier’s denial of payment based on billing errors supported?
4. Is Memorial Compounding Pharmacy (Memorial) entitled to reimbursement for the compound in question?

### **Findings**

1. Memorial is seeking reimbursement for a compound dispensed on November 28, 2017. In its position statement the Flahive, Ogden & Latson argued that the disputed compound was denied based on lack of preauthorization.

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 division. Any new denial reasons or defenses raised shall not be considered for review.<sup>1</sup>

The submitted documentation does not support that a denial based on preauthorization was provided to Memorial before this request for MFDR was filed. Therefore, the division will not consider this argument in the current dispute review as this issue constitutes a new defense.

2. TX Municipal League Intergovernmental Risk Pool denied the disputed drugs, in part, based on medical necessity.

If a dispute regarding medical necessity exists, the medical necessity dispute must be resolved prior to a request for medical fee dispute resolution.<sup>2</sup> A medical necessity denial of a medical bill must be based on an adverse determination by a utilization review agent.<sup>3</sup>

The submitted documentation includes a report dated December 12, 2017, as support for utilization review of the disputed compound. This report does not support that the insurance carrier performed a utilization review of the drug in question for the following reasons<sup>4</sup>:

- The document does not include a description for filing a complaint with the Texas Department of Insurance,
- The document does not include information describing the processes for filing an appeal,
- The document itself includes the statement, “This opinion does not constitute per se a recommendation for specific claims or administrative functions to be made or enforced.”

For these reasons, the insurance carrier’s denial is not sufficiently supported. This dispute is not subject to dismissal based on medical necessity.

3. The insurance carrier also denied the disputed compound, in part, with claim adjustment reason code 16, which indicates that the “claim/service lacks information or has submission/billing error(s).”

Review of the submitted pharmacy bills finds no submission or billing errors.<sup>5</sup> The insurance carrier failed to support this denial in its position statement.

4. Because the insurance carrier failed to sufficiently support its denial of reimbursement, Memorial is entitled to reimbursement.

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<sup>1</sup> 28 Texas Administrative Code §133.307(d)(2)(F)

<sup>2</sup> 28 Texas Administrative Code §133.305(b)

<sup>3</sup> 28 Texas Administrative Code §133.240(q), 28 Texas Administrative Codes §§19.2009 and 19.2010

<sup>4</sup> 28 Texas Administrative Code §19.2009(b)

<sup>5</sup> 28 Texas Administrative Code §133.10(f)(3)

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

\_\_\_\_\_  
May 2, 2019  
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.**

<sup>6</sup> 28 Texas Administrative Code §134.502(d)(2)

<sup>7</sup> 28 Texas Administrative Code §134.503(c)