



# 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**

XL Specialty Insurance Company

**MFDR Tracking Number**

M4-18-4710-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

August 3, 2018

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "These medications do not require preauthorization therefore do not need retrospective review."

**Amount in Dispute:** \$583.89

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "The Requestor has not established that the compound medication in question did not contain an 'N' drug."

**Response Submitted by:** Ricky D. Green, PLLC

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
December 11, 2017	Compound Medication	\$583.89	\$583.89

#### 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 §134.500 defines terms used in pharmaceutical billing.
- 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:
  - 197 – Precertification/authorization/notification absent.

- 193 – Original payment decision is being maintained. Upon review, it was determined that the claim was processed properly.

**Issues**

1. Is the insurance carrier’s reason for denial of payment supported?
2. Is Memorial Compounding Pharmacy (Memorial) entitled to reimbursement for the compound in question?

**Findings**

1. Memorial is seeking reimbursement for a compound dispensed on December 11, 2017. The insurance carrier denied the disputed compound based on preauthorization. Preauthorization of compounds is only required for:

- any compound that contains a drug identified with a status of “N” in the current edition of the ODG Appendix A<sup>1</sup>; and
- any investigational or experimental drug.<sup>2</sup>

Ricky D. Green, PLLC argued on behalf of the insurance carrier that “The ODG drug formulary contains two different brands of Meloxicam. Brand name Mobic is a ‘Y’ drug while brand name Vivlodex is an ‘N’ drug. The Requestor has not provided any documentation to support its claim that the compound drug in question did not contain an ‘N’ drug.”

Review of the ODG, Appendix A finds that the brand name formulation of Meloxicam, Vivlodex, has a status of “N” with no generic equivalents. The ingredient sought by Memorial, NDC 38779274601, is found to be a generic form of Meloxicam, which carries a status of “Y” in the ODG, Appendix A. 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.<sup>3</sup> The insurance carrier provided no evidence that it 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.

2. 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.<sup>4</sup> Each ingredient is listed below with its reimbursement amount.<sup>5</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
Flurbiprofen	38779036209	G	\$36.58	6	\$274.35	\$219.48	\$219.48
Meloxicam	38779274601	G	\$194.67	0.18	\$43.80	\$35.04	\$35.04
Mefenamic Acid	38779066906	G	\$123.60	1.8	\$278.10	\$222.48	\$222.48
Baclofen	38779038809	G	\$35.63	3	\$133.61	\$106.89	\$106.89
						<b>Total</b>	<b>\$583.89</b>

The total allowable for the disputed compound is \$583.89. This amount is recommended.

<sup>1</sup> ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary

<sup>2</sup> 28 Texas Administrative Code §134.540(b)

<sup>3</sup> Texas Insurance Code §19.2005(b)

<sup>4</sup> 28 Texas Administrative Code §134.502(d)(2)

<sup>5</sup> 28 Texas Administrative Code §134.503(c)

**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 \$583.89.

***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 \$583.89, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

**Authorized Signature**

	Laurie Garnes	November 27, 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.**