



# TEXAS DEPARTMENT OF INSURANCE

## Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645

(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

### MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

#### GENERAL INFORMATION

**Requestor Name**

Memorial Compounding Pharmacy

**Respondent Name**

Zurich American Insurance Company

**MFDR Tracking Number**

M4-18-5006-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

August 15, 2018

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "The NDC number provided is a valid NDC number and claim should be processed accordingly."

**Amount in Dispute:** \$744.79

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "The issue of medical necessity has been joined ... The Carrier's URA has issued an Adverse Determination finding this prescription not medically necessary, not appropriate, and not in compliance with the ODG ... The Requestor did not request and receive preauthorization for this investigational or experimental compound formulation."

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

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
January 11, 2018	Gabapentin 300 mg Capsules	\$178.26	\$154.95
January 11, 2018	Compound Medication	\$566.53	\$0.00
Total		\$744.79	\$154.95

#### 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**

1. 28 Texas Administrative Code §133.240 sets out the procedures for payment, reduction, or denial of a medical bill.
2. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
3. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
4. 28 Texas Administrative Code §§134.530 and 134.540 set out the preauthorization guidelines for

pharmaceutical services.

5. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 15 – The authorization number is missing, or does not apply to the billed services or provider.
  - 216 – Based on the findings of a review organization.

### **Issues**

1. Are the services in question subject to dismissal based on medical necessity?
2. Is the insurance carrier's denial of payment based on preauthorization supported?
3. Is Memorial entitled to reimbursement for Gabapentin?

### **Findings**

1. Memorial is seeking reimbursement for a compound medication dispensed on January 11, 2018. Zurich American Insurance Company (Zurich) denied payment to Memorial due to an unresolved medical necessity issue. Memorial was notified of the denial via an explanation of benefits issued in the manner and within the timeframe required by 28 Texas Administrative Code §133.240.

Additionally, Zurich presented a copy of documentation required by 28 Texas Administrative Code §133.307(d)(2)(I). Specifically, Zurich supported that it conducted utilization review and presented a denial based on adverse determination for the compound in question to Memorial.

The division concludes that an unresolved medical necessity issue exists for the compound in dispute. Medical fee dispute resolution is not the proper venue for resolution of a medical necessity dispute.

Memorial is hereby notified that the correct remedy for resolution of a medical necessity denial is found at 28 Texas Administrative Code §133.308 titled *MDR of Medical Necessity Disputes*.

To initiate a request for resolution of a medical necessity denial, the health care provider should complete and file a DWC Form LHL009 titled *REQUEST FOR A REVIEW BY AN INDEPENDENT REVIEW ORGANIZATION (IRO)*. A copy of the form and the form instructions are attached.

Memorial is also seeking reimbursement for Gabapentin 300 mg capsules dispensed on January 11, 2018. The documentation submitted does not include a utilization review was performed for Gabapentin 300 mg capsules to support a denial based on an adverse determination.<sup>1</sup>

2. The insurance carrier denied Gabapentin 300 mg capsules based on preauthorization. Preauthorization is only required for:
  - drugs identified with a status of "N" in the current edition of the ODG Appendix A<sup>2</sup>;
  - 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.<sup>3</sup>

The division finds that the drug in question is not identified with a status of "N" in the applicable edition of the ODG, *Appendix A*. Therefore, this drug does not require preauthorization per 28 TAC §134.530(b)(2)(A).

The submitted documentation does not support that the drug in question constitutes a compound drug. Therefore, these drugs do not require preauthorization per 28 TAC §134.530(b)(2)(B).

The submitted documentation does not support that the disputed drug is experimental or investigational. Therefore, this drug does not require preauthorization per 28 TAC §134.530(b)(2)(C).

The division concludes that Zurich's denial of payment of the disputed drug based on preauthorization is not supported.

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<sup>1</sup> 28 Texas Administrative Code §133.240(q)

<sup>2</sup> *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary*

<sup>3</sup> 28 Texas Administrative Code §134.530(b)(1)

3. Because the insurance carrier failed to support its denial of payment for Gabapentin 300 mg capsules, Memorial is entitled to reimbursement for the drug in question.

The reimbursement considered in this dispute is calculated as follows<sup>4</sup>:

- Gabapentin 300 mg capsules:  $(1.3418 \times 90 \times 1.25) + \$4.00 = \$154.95$

The total reimbursement is therefore \$154.95. This amount is recommended.

**Conclusion**

For the reasons stated above, the DWC finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$154.95.

**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 \$154.95, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

**Authorized Signature**

_____	Laurie Garnes	April 1, 2019
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.**

<sup>4</sup> 28 Texas Administrative Code §134.503(c)