

## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

EZ Scripts

**Respondent Name**

Norguard Insurance Co

**MFDR Tracking Number**

M4-24-1643-01

**Carrier's Austin Representative**

Box Number 12

**DWC Date Received**

March 28, 2024

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
April 5, 2023	33342-0156-15 Celecoxib 100 mg	177.10	\$177.10
April 5, 2023	50742-0226-15 Tizanidine HCL 6 mg	583.94	\$583.93
May 4, 2023	05042-0233-00 Celecoxib 100 mg	177.00	\$177.00
May 4, 2023	50742-0226-15 Tizanidine HCL 6 mg	583.20	\$583.20
June 1, 2023	33342-0156-15 Celecoxib 100 mg	177.00	\$177.10
June 1, 2023	50742-0226-15 Tizanidine HCL 6 mg	583.94	\$583.93
		<b>\$2,282.18</b>	<b>\$2282.16</b>

### Requestor's Position

"Tizanidine HCL 6MG and Celecoxib 100 MG were "Y" drugs on the ODG formulary in April 2023, May 2023, and June 2023. The medications did not require preauthorization. On all dates of service, they were denied with code U00 "there was no UR procedure/treatment request received." EZ Scripts seeks an additional payment for Tizanidine HCL 6 MG filled on 05/04/2023. The carrier only issued a payment of \$197.31."

**Amount in Dispute:** \$2,282.18

## **Respondent's Position**

The Austin carrier representative for Norguard Insurance Co is Shanley Price LLP. The representative was notified of this medical fee dispute on April 3, 2024.

Per 28 Texas Administrative Code §133.307(d)(1), if the DWC does not receive the response within 14 calendar days of the dispute notification, then the DWC may base its decision on the available information.

As of today, no response has been received from the insurance carrier or its representative. We will base this decision on the information available.

**Response submitted by:** N/A

## **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 TAC §133.307](#) sets out the procedures for resolving medical fee disputes.
2. [28 TAC §134.530](#) sets out the requirements of prior authorization.
3. [28 TAC §134.503](#) sets out the fee guidelines for pharmacy services.
4. [28 TAC §19.2003](#) defines utilization review.
5. [28 TAC §13.240](#) sets out the requirements of adverse determination denials.

### Denial Reasons

- 18 – Exact duplicate claim/service.
- 224 - Duplicate charge.
- 790 – This charge was reimbursed in accordance to the Texas Medical Fee Guideline.
- 91 – Dispensing fee adjustment.
- 95 – Plan procedures not followed.
- G01 – This item was priced as a generic prescribed drug.
- P12 – Workers' compensation jurisdictional fee schedule adjustment.

- PS2 – NDC charge(s) have been denied and no payment is recommended per scriptadvisor clinical and formulary-based review.
- U00 – There was no UR procedure/treatment request received.

## Issues

1. What rule(s) apply to disputed services?

## **Findings**

1. The requestor is seeking reimbursement for oral medication dispensed in April, May and June of 2023. The insurance carrier denied the services stating request for utilization review of treatment was not requested.

DWC Rule 28 TAC §137.100 (e) sets out the appropriate administrative process for the carrier to retrospectively review reasonableness and medical necessity of care already provided. Section (e) states:

“An insurance carrier may retrospectively review, and if appropriate, deny payment for treatments and services not preauthorized under subsection (d) of this section when the insurance carrier asserts that health care provided within the Division treatment guidelines is not reasonably required. The assertion must be supported by documentation of evidence-based medicine that outweighs the presumption of reasonableness established by Labor Code §413.017.”

Retrospective review is defined in 28 TAC §19.2003 (28) as “The process of reviewing health care which has been provided to the injured employee under the Texas Workers’ Compensation Act to determine if the health care was medically reasonable and necessary.”

DWC Rule 28 Texas Administrative Code §133.240 (q) states, in relevant part, “When denying payment due to an adverse determination under this section, the insurance carrier shall comply with the requirements of §19.2009 of this title ... Additionally, in any instance where the insurance carrier is questioning the medical necessity or appropriateness of the health care services, the insurance carrier shall comply with the requirements of §19.2010 of this title ..., including the requirement that prior to issuance of an adverse determination the insurance carrier shall afford the health care provider a reasonable opportunity to discuss the billed health care with a doctor ...” Submitted documentation does not support that the insurance carrier followed the appropriate procedures for a retrospective review denial of the disputed services outlined in §19.2003 (b)(31) or §133.240 (q). Therefore, the insurance carrier did not appropriately raise medical necessity for this dispute and this denial reason will not be considered in this review

The division finds that the carrier failed to follow the appropriate administrative process regarding utilization review.

Additionally, DWC Rule §134.530 (b)(1) states in pertinent parts, “Preauthorization for claims subject to the Division’s closed formulary is only required for drugs identified with a status of “N” in the current edition of the *ODG Treatment in Workers’ Comp* (ODG) / Appendix A.”

Review of the applicable Appendix A found both medications are "Y" drugs and do not require prior authorization. The service in dispute will be reviewed per applicable fee guideline.

2. DWC Rule 28 Texas Administrative Code §134.503 (c)(1)(A)(B) states in pertinent part (c) The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:

(1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:

(A) Generic drugs: ((AWP per unit) x (number of units) x 1.25) + \$4.00 dispensing fee per prescription = reimbursement amount;

(B) Brand name drugs: ((AWP per unit) x (number of units) x 1.09) + \$4.00 dispensing fee per prescription = reimbursement amount;

Drug	NDC	Generic(G) /Brand(B)	Price /Unit	Units Billed	AWP Formula	Billed Amt	Lesser of AWP and Billed
Celecoxib 4/5/23	33342015615	G	\$4.6	30	\$177.10	\$177.10	\$177.10
Tizanidine 4/5/23	50742022615	G	\$5.15	90	\$583.93	\$583.94	\$583.93
Celecoxib 5/4/23	33342015615	G	\$4.6	30	\$177.10	\$177.00	\$177.00
Tizanidine 5/4/23	50742022615	G	\$5.15	90	\$583.93	\$583.20	\$583.20
Celecoxib 6/1/23	33342015615	G	\$4.6	30	\$177.10	\$177.00	\$177.00
Tizanidine 6/1/23	50742022615	G	\$5.15	90	\$583.93	\$583.94	\$583.93
						\$2282.18	\$2282.16

The total reimbursement is \$2281.16, 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 is due.

**Order**

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to reimbursement for the disputed services. It is ordered that Norguard Insurance Co must remit to EZ Scripts \$2281.16 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

\_\_\_\_\_  
May 28, 2024  
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](http://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](mailto: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](mailto:CompConnection@tdi.texas.gov).