



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

ProximaRX

**Respondent Name**

Everest National Insurance Co

**MFDR Tracking Number**

M4-25-0395-01

**Carrier's Austin Representative**

Box Number 19

**DWC Date Received**

October 20, 2024

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
June 5, 2024	29300-0420-10	\$75.60	\$26.62
June 5, 2024	72888-0012-00	\$106.72	\$65.52
June 5, 2024	50228-0180-10	\$97.46	\$53.95
June 5, 2024	50228-0436-05	\$125.92	\$89.53
June 5, 2024	62559-0841-01	\$72.15	\$22.32
June 5, 2024	33342-0088-41	\$323.17	\$323.17
		<b>\$801.02</b>	<b>\$581.11</b>

### Requestor's Position

"The carrier denied this claim indicating that the claim lacks information which is needed for adjudication. The bill has been billed correctly."

**Amount in Dispute:** \$801.02

### Respondent's Position

The Austin carrier representative for Everest National Insurance Co is Flahive, Ogden & Latson.

The representative was notified of this medical fee dispute on October 29, 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 §180.22](#) defines health care provider roles and responsibilities.
3. [28 TAC §124.2](#) sets out requirements of plain language notification.
4. [28 TAC §134.503](#) sets out the fee guidelines for pharmacy services.

### Denial Reasons

- 5050 – Claim is denied. No payment will be made.
- P4 – Workers' compensation claim adjudicated as non-compensable. This payer not liable for claim or service/treatment
- N612 – Medical provider not authorized/certified to provide treatment to injured workers in this jurisdiction.

### Issues

1. Is the insurance carrier's denial supported?
2. What rule is applicable to reimbursement?
3. Is the requestor entitled to reimbursement?

### **Findings**

1. The requestor seeks reimbursement of the medication (medications dispensed on June 5, 2024). The insurance carrier denied the claim stating the claim was non compensable and medical provider not authorized/certified to provide treatment.

DWC Rule 28 TAC §133.307(d)(2)(H) requires that if the medical fee dispute involves

compensability, extent of injury, or liability, the insurance carrier shall attach a copy of any related Plain Language Notice in accordance with Rule §124.2 (relating to carrier reporting and notification requirements).

DWC Rule 28 TAC §124.2(h) requires notification to the division and claimant of any dispute of disability or extent of injury using plain language notices with language and content prescribed by the division. Such notices "shall provide a full and complete statement describing the carrier's action and its reason(s) for such action. The statement must contain sufficient claim-specific substantive information to enable the employee/legal beneficiary to understand the carrier's position or action taken on the claim."

Review of the submitted information finds no copies, as required by Rule §133.307(d)(2)(H), of any PLN-11 or PLN 1 notices issued in accordance with Rule §124.2. The insurance carrier's denial reason is therefore not supported. Furthermore, because the respondent failed to meet the requirements of Rule §133.307(d)(2)(H) regarding notice of issues of extent of injury, the respondent has waived the right to raise such issues during dispute resolution. Consequently, the division concludes there are no outstanding issues of compensability, extent, or liability for the injury. The disputed services are therefore reviewed pursuant to the applicable rules and guidelines.

DWC Rule 28 TAC §180.22, titled Health Care Provider Roles and Responsibilities states in pertinent part, "(c) The treating doctor is the doctor primarily responsible for the efficient management of health care and for coordinating the health care for an injured employee's compensable injury. The treating doctor shall: 1) except in the case of an emergency, approve or recommend all health care reasonably required that is to be rendered to the injured employee including, but not limited to, treatment or evaluation provided through referrals to consulting and referral doctors or other health care providers, as defined in this section."

Review of the submitted documentation finds that the treating doctor on record, at the time the disputed services were rendered Dr. Anibal Rossel. This is also the physician that prescribed the medication in dispute.

The insurance carrier's denials are not supported. The services 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:  $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \$4.00$  dispensing fee per prescription = reimbursement amount;

- (B) Brand name drugs:  $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \$4.00$  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
Amitriptyline	29300042010	G	0.60	30	\$26.62	\$75.60	\$26.62
Cyclobenzaprine	72888001200	G	1.64	30	\$65.52	\$106.72	\$65.52
Gabapentin	50228018010	G	1.33	30	\$53.95	\$97.46	\$53.95
Naproxen	50228043605	G	1.14	60	\$89.53	\$125.92	\$89.53
Meclizine	62559084101	G	0.325	45	\$22.32	\$72.15	\$22.32
Rizatriptan	33342008841	G	33.20	8	\$336.08	\$323.17	\$323.17

The total reimbursement is \$581.11, 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 Everest National Insurance Co must remit to ProximaRX \$581.11 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

\_\_\_\_\_  
January 23, 2025  
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).