



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

EZ Scripts

Respondent Name

Clear Spring Property & Casualty Co.

MFDR Tracking Number

M4-25-0902-01

Carrier's Austin Representative

Box Number 44

DWC Date Received

December 20, 2024

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
December 19, 2023	67877031901	\$31.45	\$31.45
	50228018010	\$103.90	\$103.90
April 5, 2024	55111068305	\$22.00	\$19.72
	71093011105	\$193.00	\$193.00
May 22, 2024	50228018010	\$53.95	\$53.95
	59316010212	\$23.98	\$23.90
June 27, 2024	55111068305	\$22.00	\$19.72
	50228018010	\$103.90	\$103.90
	59316010212	\$13.99	\$13.95
July 29, 2024	55111068305	\$22.00	\$19.72
	59316010228	\$23.37	\$23.32
August 27, 2024	59651036105	\$43.52	\$0.00
	50228018010	\$103.90	\$0.00
	59316010212	\$23.98	\$0.00
September 27, 2024	50228018010	\$103.90	\$0.00
	59316010212	\$13.99	\$0.00
	59651036105	\$23.76	\$0.00
Total		\$926.59	\$606.52

Requestor's Position

"Per the adjuster's assistant, no medications are being denied per peer review or IME."

Amount in Dispute: \$926.59

Respondent's Position

"Upon receipt of the billed services, Requestor did not issue payment because Gabriel Regino Jr. is not Claimant's treatment doctor nor is he a provider associated with Claimant's treating doctor ... To the extent that Regino is treating Claimant as a referral doctor, no request for pain management has been authorized pursuant to § 134.600(p).

"Section 134.500(10) sets forth that a prescribing doctor includes a physician or dentist, as well as an advanced practice nurse or physician assistant to whom a physician has delegated authority to prescribe medications. The provision does not indicate that a nurse practitioner, such as Regino, has authority to prescribe medications. In addition, the EOBs set forth that the charges for the over-the-counter medication exceed the retail price ...

"Lastly, the DWC-60 Medical Fee Dispute Resolution Request lists dates of service from December 19, 2023 through September 27, 2024. The DWC-60 was received by the Division on December 20, 2024. Respondent submits that the request is untimely to the extent it was filled more than one year after the December 19, 2023 dates of service."

Response Submitted by: Smith & Carr, P.C.

Findings and Decision

Authority

This medical fee dispute is decided according to [Texas Labor Code \(TLC\) §413.031](#) and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

Statutes and Rules

1. [28 Texas Administrative Code \(TAC\) §102.3](#) sets out the requirements for computation of time.
2. [28 TAC §133.20](#) sets out the procedures for submission of a medical bill.
3. [28 TAC §133.307](#) sets out the procedures for resolving medical fee disputes.
4. [28 TAC §134.503](#), effective October 23, 2011, 36 TexReg 6949 sets out the fee guidelines for pharmaceutical services.
5. [TLC §408.021](#) defines the entitlement to benefits.

Denial Reasons

The insurance carrier denied the payment for the disputed services with the following claim adjustment codes:

- TTP2 – Not a work related/illness and thus not the liability of the workers compensation carrier.
- Comments: "PLN1 3-29-23 CLAIM DENIED IN ENTIRETY"
- D2(P12) – The charge for the over-the-counter medication exceeds the retail price.
- T184 – The prescribing/ordering provider is not eligible to prescribe/order the service billed.

Issues

1. Was date of service December 19, 2023, timely filed for medical fee dispute resolution?
2. Did the insurance carrier maintain its denial of payment based on compensability or liability?
3. Is the insurance carrier's denial based on the prescriber's eligibility supported?
4. Is EZ Scripts entitled to reimbursement for the drugs in question?

Findings

1. In its response to this dispute request, the insurance carrier claimed, "The DWC-60 was received by the Division on December 20, 2024. Respondent submits that the request is untimely to the extent it was filled more than one year after the December 19, 2023, dates of service."

Per 28 TAC §133.307(c),

- (1) ... A requestor must timely file the request with the division or waive the right to MFDR. The division will deem a request to be filed on the date the division receives the request. A decision by the division that a request was not timely filed is not a dismissal and may be appealed pursuant to subsection (g) of this section.

- (A) A request for MFDR that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute.

Computation of time for workers' compensation claims is subject to 28 TAC §102.3, which states,

- (a) Due dates and time periods under this Act shall be computed as follows:
 - (1) computing a period of days. In counting a period of time measured by days, the first day is excluded and the last day is included.
 - (2) computing a period of months. If a number of months is to be computed by

counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

In computing the due date for filing this medical fee dispute, the first day, December 19, 2023, is excluded. Therefore, the computation is begun on December 20, 2023. Because the request for MFDR was received by DWC on December 20, 2024, the request is found to be timely filed.

2. EZ Scripts is seeking reimbursement for drugs dispensed on the following dates of service:

- December 19, 2023;
- April 5, 2024;
- May 22, 2024;
- June 27, 2024; and
- July 29, 2024.

The insurance carrier denied these dates of service stating, "Not a work related/illness and thus not the liability of the workers compensation carrier," and "CLAIM DENIED IN ENTIRETY."

Information known to DWC indicates that the claimant and insurance carrier came to an agreement that the injured employee had sustained a compensable injury for the date of injury subject to this dispute. In addition, DWC finds that the insurance carrier did not maintain its denial for this reason in its response to this dispute.

3. EZ Scripts is also seeking reimbursement for drugs dispensed on date of service August 27, 2024. The insurance carrier denied payment for this date of service, in part, stating, "The prescribing/ordering provider is not eligible to prescribe/order the service billed."

In its position statement, the respondent stated, "Requestor did not issue payment because Gabriel Regino Jr. is not Claimant's treatment doctor nor is he a provider associated with Claimant's treating doctor."

TLC §408.021(c) states, "Except in an emergency, all health care must be approved or recommended by the employee's treating doctor."

No evidence was provided the service in question was an emergency or that the prescriber was the injured employee's treating doctor. DWC found no evidence that the prescriber obtained the approval or recommendation of the treating doctor. Therefore, DWC finds that the denial of payment for this date of service is supported.

4. EZ Scripts is also seeking reimbursement for drugs dispensed on date of service September 27, 2024. 28 TAC §133.20(a) requires the pharmacy to "submit all medical bills to the insurance carrier except when billing the employer in accordance with subsection (j) of this section."

DWC found no documentation supporting the submission of a medical bill for the date of service in question. Therefore, EZ Scripts is not entitled to reimbursement for this date of service.

Because the insurance carrier's denial of payment for date of service August 27, 2024, was supported, EZ Scripts is not entitled to reimbursement.

Because the insurance carrier failed to support a denial of payment for the following dates of service, EZ Scripts is entitled to reimbursement:

- December 19, 2023;
- April 5, 2024;
- May 22, 2024;
- June 27, 2024; and
- July 29, 2024.

The reimbursement considered in this dispute is calculated according to 28 TAC §134.503(c)(a), with relevant formula for generic drugs: $((AWP \text{ per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount.

Date	Drug	NDC	Generic(G) /Brand(B)	Price /Unit	Units Billed	AWP Formula	Billed Amt	Lesser of AWP and Billed
12/19/2023	Ibuprofen 400 mg Tablets	67877031901	G	\$0.36600	60	\$31.45	\$31.45	\$31.45
12/19/2023	Gabapentin 300 mg Capsules	50228018010	G	\$1.33200	60	\$103.90	\$103.90	\$103.90
4/5/2024	Ibuprofen 600 mg Tablets	55111068305	B	\$0.24030	60	\$19.72	\$22.00	\$19.72
4/5/2024	Gabapentin 600 mg Tablets	71093011105	G	\$2.52000	60	\$193.00	\$193.00	\$193.00
5/22/2024	Gabapentin 300 mg Capsules	50228018010	G	\$1.33200	30	\$53.95	\$53.95	\$53.95
5/22/2024	Biofreeze External 4% Gel	59316010212	B	\$0.10258	178	\$23.90	\$23.98	\$23.90
6/27/2024	Ibuprofen 600 mg Tablets	55111068305	B	\$0.24030	60	\$19.72	\$22.00	\$19.72
6/27/2024	Gabapentin 300 mg Capsules	50228018010	G	\$1.33200	60	\$103.90	\$103.90	\$103.90
6/27/2024	Biofreeze External 4% Gel	59316010212	B	\$0.10258	89	\$13.95	\$13.99	\$13.95
7/29/2024	Ibuprofen 600 mg Tablets	55111068305	B	\$0.24030	60	\$19.72	\$22.00	\$19.72
7/29/2024	Biofreeze External 4% Gel	59316010228	B	\$0.07477	237	\$23.32	\$23.37	\$23.32
							Total	\$606.52

The total allowable reimbursement for the drugs in question is \$606.52. 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 requestor has established that reimbursement of \$606.52 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 Clear Spring Property & Casualty Co. must remit to EZ Scripts \$606.52 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

March 14, 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. 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 three or email 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 tres o correo electrónico CompConnection@tdi.texas.gov.