



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Injured Workers Pharmacy LLC

Respondent Name

Hartford Insurance Co. of Illinois

MFDR Tracking Number

M4-25-1514-01

Carrier's Austin Representative

Box Number 47

DWC Date Received

March 4, 2025

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
March 25, 2024	70748033501	\$3,361.97	\$3,361.97

Requestor's Position

"The insurance carrier denied the bill for the no pre-authorization prior to filling. An appeal was submitted explaining that the medication DICLOFENAC 2% SOLUTION PUMP, NDC 70748033501 would not require pre-authorization prior to filling. The medication is not listed as an 'N' status drug. The medication was not created through compounding nor is it an investigational or experimental drug for treatment. We asked they please review again for payment Pule [sic] rule 134.500 which states that ... closed formulary consists of all available FDA approved prescription and non-prescription drugs prescribed and dispensed for outpatient use. DICLOFENAC 2% SOLUTION PUMP is FDA approved and not excluded from the formulary, therefore; it would not require UR approval prior to filling."

Amount in Dispute: \$\$3,361.97

Respondent's Position

"We have again reviewed services on March 25, 2024, and the denial stands as Pre-Authorization was not requested for this medication. Per Texas Administrative Code Rule 134.600 which states:

(1) For situations in which the prescribing doctor determines and documents that a drug excluded from the closed formulary is necessary to treat an injured employee's compensable injury and has prescribed the drug, the prescribing doctor, other requestor, or injured employee must request approval of the drug in a specific instance by requesting preauthorization in accordance with the certified network's preauthorization process established pursuant to Chapter 10, Subchapter F of this title (relating to Utilization Review and Retrospective Review) and applicable provisions of Chapter 19 of this title (relating to Agents' Licensing)."

Response Submitted by: Liberty Mutual Insurance

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 \(TAC\) §133.307](#) sets out the procedures for resolving medical fee disputes.
2. [28 TAC §133.501](#) defines terms associated with pharmaceutical services.
3. [28 TAC §134.503](#) effective October 23, 2011, 36 TexReg 6949 sets out the fee guidelines for pharmaceutical services prior to November 28, 2024.
4. [28 TAC §134.530](#) effective November 28, 2024, 49 TexReg 9758 sets out the preauthorization requirements for pharmaceutical services prior to November 28, 2024.
5. [28 TAC §134.600](#) sets out general preauthorization guidelines.

Denial Reasons

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

- 197 (Undefined)
- 5917 – Pre-authorization was required but not requested for this service per DWC Rule 134.600.
- 18 (Undefined)
- U301 – This item has been reviewed on a previously submitted bill or is currently in process. Notification of decision has been previously provided or will be issued upon completion of our review.

Issues

1. Is the insurance carrier's denial based on preauthorization supported?
2. Is Injured Workers Pharmacy LLC entitled to reimbursement?

Findings

1. Injured Workers Pharmacy LLC is seeking reimbursement for Diclofenac Sodium 2% Solution dispensed on March 25, 2024. The insurance carrier denied payment based on preauthorization.

The insurance carrier argued that 28 TAC §134.600(1) supports its denial. DWC finds that no such rule as quoted in its response statement exists. However, 28 TAC §134.600(p)(11) states "(p) non-emergency health care requiring preauthorization includes: ... (11) drugs not included in the applicable division formulary."

28 TAC §134.501(3) defines the closed formulary as "... All **available Food and Drug Administration (FDA) approved prescription and nonprescription drugs** prescribed and dispensed for outpatient use, but excludes:

- (A) drugs **identified with a status of 'N'** in the current edition of the Official Disability Guidelines Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary, and any updates;
- (B) any prescription drug created through compounding prescribed before July 1, 2018 that contains a drug identified with a status of 'N' in the current edition of the *ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary*, and any updates;
- (C) any prescription drug created through compounding prescribed and dispensed on or after July 1, 2018; and
- (D) any investigational or experimental drug for which there is early, developing scientific or clinical evidence demonstrating the potential efficacy of the treatment, but which is not yet broadly accepted as the prevailing standard of care as defined in Labor Code §413.014(a)." [emphasis added]

DWC finds that Diclofenac Sodium 2% Solution is a prescription drug approved by the FDA and does not meet any of the criteria for exclusion, therefore, it is subject to the DWC closed formulary as defined.

Per 28 TAC §§134.530(b)(1), for claims subject to the DWC closed formulary, preauthorization is **only** required for drugs that are **excluded** from the formulary.

DWC finds that the insurance carrier's denial of payment based on preauthorization is not supported.

2. Because Hartford Insurance Co. of Illinois failed to support its denial reason for the service in this dispute, DWC finds that Injured Workers Pharmacy LLC is entitled to reimbursement.

The reimbursement considered in this dispute is calculated according to 28 TAC §134.503(c)(1)(A), with relevant formula for generic drugs: ((AWP per unit) x (number of units) x 1.25) + \$4.00 dispensing fee per prescription = reimbursement amount.

Diclofenac Sodium 2% Solution: (23.98554 x 112 x 1.25) + \$4.00 = \$3,361.98

The total allowable amount is \$3,361.98. The requestor is seeking \$3,361.97. 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 \$3,361.97 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 Hartford Insurance Co. of Illinois must remit to Injured Workers Pharmacy LLC \$3,361.97 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 8, 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.