



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requester Name**

Injured Workers Pharmacy

**Respondent Name**

Technology Insurance Co

**MFDR Tracking Number**

M4-25-3163-01

**Insurance Carrier's Austin Representative**

BOX 17 Downs Stanford PC

**DWC Date Received**

July 31, 2025

### Summary of Findings

Date(s) of Service	Disputed Services	Amount in Dispute	Amount Due
September 11, 2024	NDC 70512010610	\$64.69	\$64.69
September 23, 2024	NDC 59316011520	\$7.73	\$7.73
September 25, 2024	NDC 70512010610	\$64.69	\$64.69
September 30, 2024	NDC 70512010610	\$64.69	\$64.69
October 11, 2024	NDC 70512010610	\$64.69	\$64.69
October 23, 2024	NDC 59316011520	\$7.73	\$7.73
October 24, 2024	NDC 70512010610	\$64.69	\$64.69
November 18, 2024	NDC 59316011520	\$7.73	\$7.73
December 6, 2024	NDC 70512010610	\$64.69	\$64.69
December 19, 2024	NDC 70512010610	\$64.69	\$64.69

December 30, 2024	NDC 70512010610	\$64.69	\$64.69
February 24, 2025	NDC 70512010610	\$64.69	\$64.69
March 6, 2025	NDC 70512010610	\$64.69	\$64.69
March 17, 2025	NDC 70512010610	\$64.69	\$64.69
<b>Total</b>		<b>\$734.78</b>	<b>\$734.78</b>

### Requester's Position

"DICLOFENAC SODIUM 1% GEL and BIOFREEZE GEL 5% are both being consistently underpaid by the carrier. (DICLOFENAC SODIUM 1% GEL 100.00 x 2.4277 x 1.25 + 4.00. BIOFREEZE GEL 5% 472.00 x 0.0878 x 1.09 + 4.00.)

**Amount In Dispute:** \$734.78

### Respondent's Position

"Please see the EOBs included in with Requestor's DWC-60 and the additional EOBs included herein. The billed amount of the medications was reduced based on the overcharging of the medications compared to the over-the-counter medications."

**Response Submitted By:** Downs Stanford, P.C.

### Findings and Decision

#### Authority

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

#### Statutes and Rules

1. 28 Texas Administrative Code (TAC) Section [133.307](#) sets out the procedures for resolving medical fee disputes.
2. 28 TAC Section [134.503](#) sets out the fee guidelines for services provided by a pharmacy.
3. Labor Code Section [408.027](#) sets out the requirements for payment of the health care provider.

#### Adjustment Reasons

The insurance carrier reduced payment for the disputed services with the following reasons:

1. P12:D2 – Workers' compensation jurisdictional fee schedule adjustment.
2. D2(P12) – The charge for the over-the-counter medication exceeds the retail price.

3. W3:@G – The Benefit for this Service is included in the payment/allowance for another service/procedure that has been performed on the same day.
4. @G(W3) – No additional reimbursement allowed after review of appeal/reconsideration.
5. 29:XD – The time limit for filing has expired.
6. XD(29) – This bill was submitted after the billing timeliness guidelines provided.

### Issues

1. What is DWC considering in this medical fee dispute?
2. Is the insurance carrier's reduction based on timely filing supported?
3. Is the insurance carrier's reduction based on over-the-counter adjustment supported?
4. Is the requester entitled to additional reimbursement?

### Findings

1. The requester is seeking additional reimbursement for drugs represented by NDC 70512010610 and 59316011520 dispensed September 11, 2024, through March 17, 2025. The insurance carrier paid these dates of service in part. These are the services considered in this dispute.
2. Per submitted explanation of benefits dated July 9, 2025, the insurance carrier included adjustment of reimbursement based on timely filing for date of service October 24, 2024. Labor Code Section 408.027(a) states, "A health care provider shall submit a claim for payment to the insurance carrier not later than the 95th day after the date on which the health care services are provided to the injured employee. Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment."

The documentation indicates that the insurance carrier paid this date of service in part. Therefore, the insurance carrier did not support a denial based on timely filing.

3. The insurance carrier reduced payment of all dates of service citing fee guidelines and stating, "The charge for the over-the-counter medication exceeds the retail price."

Per 28 TAC Section 134.503(d), "Reimbursement for nonprescription drugs or over-the-counter medications must be the retail price of the lowest package quantity reasonably available that will fill the prescription."

28 TAC Sections 133.307(d)(2)(E)(iv) and (v) state,

- (iv) a discussion regarding how the submitted documentation supports the respondent's position for each disputed fee issues;
- (v) documentation that discusses, demonstrates, and justifies that the amount the respondent paid is a fair and reasonable reimbursement in accordance with Labor Code §413.011 and §134.1 or §134.503 of this title if the dispute involves health care for which

the division has not established a MAR or reimbursement rate, as applicable.

DWC found no evidence in the submitted documentation that the drugs in question were over-the-counter medications. The insurance carrier also failed to provide a retail price which could be applied in this case to demonstrate and justify that its reduction was in accordance with 28 TAC Section 134.503(d).

DWC finds that the insurance carrier's reason for reduction of payment for the drugs in question is not supported.

4. Because the insurance carrier did not support its reason for reduction, DWC will review the reimbursement based on applicable fee guidelines.

28 TAC Section 134.503(e) states, in relevant part, "Except as provided by subsection (f) of this section, **if an amount cannot be determined under subsections (c)(1) or (d)** of this section, reimbursement must be an amount that is consistent with the criteria listed in Labor Code §408.028(f), including providing for reimbursement rates that are fair and reasonable." [emphasis added]

Based on the drugs as billed, DWC finds that an amount can be determined under subsection (c)(1). Therefore, the procedures outlined in subsection (e) do not apply.

The reimbursement for Diclofenac Sodium considered in this dispute is calculated according to 28 TAC Section 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:  $(2.4277 \times 100 \times 1.25) + \$4.00 = \$307.46$  for each date of service

The total allowable reimbursement for 11 dates of service for Diclofenac Sodium is \$3,382.06.

The reimbursement for Biofreeze 5% considered in this dispute is calculated according to 28 TAC Section 134.503(c)(1)(B), with relevant formula for generic drugs: ((AWP per unit) x (number of units) x 1.09) + \$4.00 dispensing fee per prescription = reimbursement amount.

Biofreeze Gel 5%:  $(.0878 \times 472 \times 1.09) + \$4.00 = \$49.17$  for each date of service

The total allowable reimbursement for three dates of service for Biofreeze Gel 5% is \$147.51.

The total allowable reimbursement for the drugs considered in this dispute is \$3,529.57. The insurance carrier paid \$2,794.79. An additional reimbursement of \$734.78 is recommended.

## Conclusion

The outcome of this medical fee dispute is based on the evidence requester and the respondent presented 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 Sections [413.031](#) and [413.019](#), DWC has determined the requester is entitled to additional reimbursement for the disputed services. It is ordered that Technology Insurance Co must remit to Injured Workers Pharmacy \$734.78 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC Section [134.130](#).

### Authorized Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

February 25, 2026

\_\_\_\_\_  
Date

### Your Right to Appeal

Either party to this medical fee dispute has a right to seek review of this decision under 28 TAC Section [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 800-252-7031, option three 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 this Medical Fee Dispute Resolution Findings and Decision** with any other required information listed in 28 TAC Section [141.1\(d\)](#).

Si prefiere hablar con una persona en español acerca de esta correspondencia, favor de llamar a 800-252-7031, opción tres o correo electrónico [CompConnection@tdi.texas.gov](mailto:CompConnection@tdi.texas.gov).