



Medical Fee Dispute Resolution Findings and Decision

General Information

Requester Name

Injured Workers Pharmacy

Respondent Name

ACIG Insurance Co

MFDR Tracking Number

M4-26-0602-01

Insurance Carrier's Austin Representative

BOX 47 Burns Anderson Jury Brenner & Donovan

DWC Date Received

November 1, 2025

Summary of Findings

Date(s) of Service	Disputed Services	Amount in Dispute	Amount Due
April 4, 2025	NDC 70512010610	\$64.69	\$64.69
Total		\$64.69	\$64.69

Requester's Position

"A Medical Fee Dispute Resolution request has been submitted for invoices not paid for in full by Tristar for DOS 4/4/25 DICLOFENAC SODIUM 1% GEL ... **There is no evidence that the drug in question is an over-the-counter medication, nor was there a retail price which could be applied to support the reduction.**"

Amount In Dispute: \$64.69

Respondent's Position

"Diclofenac Sodium is an over the counter/non-prescription drug ... Regarding Requestor's assertion that there is no evidence that the drug in question is a over-the-counter medication, Diclofenac Sodium 1% gel was moved from prescription to OTC by the FDA on February 14, 2020. Such action is noted on the FDA's 'Prescription to nonprescription Switch List" ...

Response Submitted By: Burns Anderson Jury & Brenner, L.L.P.

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.

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. 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.
3. @G(W3) – No additional reimbursement allowed after review of appeal/reconsideration.
4. D2(P12) – The charge for the over-the-counter medication exceeds the retail price.
5. TI13 – level 1 appeal means a request for reconsideration under 133.250

Issues

1. What is DWC considering in this medical fee dispute?
2. Is the insurance carrier's reduction supported?
3. Is the requester entitled to [additional] reimbursement?

Findings

1. The requester is seeking additional reimbursement for Diclofenac Sodium, NDC 70512010610, dispensed April 4, 2025. The insurance carrier reduced payment citing fee guidelines and stating, "The charge for the over-the-counter medication exceeds the retail price." This is the service considered in this dispute.
2. In its position statement, the insurance carrier argued that "DICLOFENAC SODIUM is an over the counter/non-prescription drug."

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 Section 134.503(e) states,

- (e) 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. The insurance carrier **must**:

- (1) develop one or more reimbursement methodologies for determining reimbursement under this subsection;
- (2) maintain in reproducible format documentation of the insurance carrier's methodologies for establishing an amount;
- (3) apply the reimbursement methodologies consistently among health care providers in determining reimbursements under this subsection; and
- (4) on the division's request, provide to the division copies of such documentation. (emphasis added)

28 TAC Sections 133.307(d)(2)(E)(iv) and (v) require the insurance carrier to include the following information in its response:

- (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.

While the insurance carrier provided information to support that the drug in question may be considered an over-the-counter drug, it 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). The insurance carrier also failed to provide documentation to support that it has developed a methodology consistent with 28 TAC Section 134.503(e).

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

3. Because the insurance carrier's reduction reason is not supported, DWC will review the reimbursement based on applicable fee guidelines.

Based on the drug as billed, DWC finds that an amount can be determined under subsection (c)(1). Therefore, the reimbursement considered in this dispute is calculated according to Subsection (A), with relevant formula for generic drugs: $((AWP \text{ per unit}) \times (\text{number of units}) \times 1.25) + \$4.00 \text{ dispensing fee per prescription} = \text{reimbursement amount}$.

$$\text{Diclofenac Sodium: } (2.4277 \times 100 \times 1.25) + \$4.00 = \$307.46$$

The total allowable reimbursement for the drug considered in this dispute is \$307.46. The

insurance carrier paid \$242.77. An additional reimbursement of \$64.69 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 ACIG Insurance Co must remit to Injured Workers Pharmacy \$64.69 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC Section [134.130](#).

Authorized Signature

_____	_____	February 26, 2026
Signature	Medical Fee Dispute Resolution Officer	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. 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.

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.