

**DECISION AND ORDER**

This case is decided pursuant to Chapter 410 of the Texas Workers' Compensation Act and Rules of the Division of Workers' Compensation adopted thereunder.

**ISSUE**

A contested case hearing was held on February 14, 2008, to decide the following disputed issue:

1. Whether the preponderance of the evidence is contrary to the decision of the Independent Review Organization (IRO) that one visit of eight Botox injections with EMG guidance is not reasonable and necessary health care services for the compensable injury of \_\_\_\_?

**PARTIES PRESENT**

Claimant appeared and was assisted by (Ombudsman). Carrier appeared and was represented by (Attorney).

**BACKGROUND INFORMATION**

On \_\_\_\_, Claimant injured her neck and upper back when she twisted while pulling down a box of computer labels. The IRO determined that one visit of eight Botox injections with EMG guidance is not reasonable and necessary treatment for the injury because there is currently insufficient scientific evidence of the effectiveness of botulinum toxin in the treatment of back pain.

Under the Official Disability Guidelines in reference to Neck and Upper Back, Botulinum toxin (injection), the following recommendation is made:

"Recommended for cervical dystonia, but not recommended for mechanical neck disorders, including whiplash. See more details below.

*Not recommended for the following: headache; fibromyositis; chronic neck pain; myofascial pain syndrome; & trigger point injections.* Several recent studies have found no statistical support for the use of Botulinum toxin A (BTX-A) for the treatment of cervical or upper back pain, including the following:

- Myofascial analgesic pain relief as compared to saline. (Qerama, 2006)
- Use as a specific treatment for myofascial cervical pain as compared to saline. (Ojala, 2006) (Ferrante, 2005) (Wheeler, 1998)
- Injection in myofascial trigger points as compared to dry needling or local anesthetic injections. (Kamanli, 2005) (Graboski, 2005).

Recent systematic reviews have stated that current evidence does not support the use of BTX-A trigger point injections for myofascial pain. (Ho, 2006) Or for mechanical neck disease (as compared to saline). (Peloso-Cochrane, 2006) There is one recent study that has found statistical improvement with the use of BTX-A compared to saline. Study

patients had at least 10 trigger points and no patient in the study was taking an opioid. (Gobel, 2006) Botulinum toxin A (e.g., Botox) remains under study for treatment of chronic whiplash associated disorders and no statistical difference has been found when compared to treatment with placebo at this time. (Freund, 2000) (Aetna, 2005) (Blue Cross Blue Shield, 2005) (Juan, 2004)

*Recommended: cervical dystonia*, a condition that is not generally related to workers' compensation injuries (also known as spasmodic torticollis), and is characterized as a movement disorder of the nuchal muscles, characterized by tremor or by tonic posturing of the head in a rotated, twisted, or abnormally flexed or extended position or some combination of these positions. In recent years, botulinum toxin type A has become first line therapy for cervical dystonia. When treated with BTX-B, high antigenicity limits long-term efficacy. Botulinum toxin A injections provide more objective and subjective benefit than trihexyphenidyl or other anticholinergic drugs to patients with cervical dystonia. (Costa-Cochrane, 2005) (Costa2-Cochrane, 2005) (Costa3-Cochrane, 2005) (Jankovic, 2006) (Lew, 1997) (Trosch, 2001) (Balash, 2004) (Sycha, 2004)

Claimant asserts that previous botox injection treatment has been effective in the treatment of her pain and allowed her to work. However, there is no evidence of dystonia; and Claimant failed to provide evidence based medicine contrary to the Official Disability Guidelines. Additionally, botox injections for the purposes herein is "off label" treatment which has not been approved by the United States Food and Drug Administration (FDA). Also, the FDA has issued an "Early Communication" warning that it is reviewing the possibility of serious systemic adverse reactions. Claimant is not entitled to the procedure requested.

Even though all the evidence presented was not discussed, it was considered. The Findings of Fact and Conclusions of Law are based on all of the evidence presented.

### **FINDINGS OF FACT**

1. The parties stipulated to the following facts:
  - A. Venue is proper in the (City) Field Office of the Texas Department of Insurance, Division of Workers' Compensation.
  - B. On \_\_\_\_, Claimant was the employee of Employer, when she sustained a compensable injury.
2. The preponderance of the evidence is not contrary to the decision of the Independent Review Organization (IRO) that one visit of eight Botox injections with EMG guidance is not reasonable and necessary health care services for the compensable injury of \_\_\_\_.

### **CONCLUSIONS OF LAW**

1. The Texas Department of Insurance, Division of Workers' Compensation, has jurisdiction to hear this case.
2. Venue is proper in the (City) Field Office.

3. One visit of eight Botox injections with EMG guidance is not reasonable and necessary health care services for the compensable injury of \_\_\_\_.

### **DECISION**

One visit of eight Botox injections with EMG guidance is not reasonable and necessary health care services for the compensable injury of \_\_\_\_.

### **ORDER**

Carrier is not liable for the benefits at issue in this hearing. Claimant remains entitled to medical benefits for the compensable injury in accordance with §408.021.

The true corporate name of the insurance carrier is **FACILITY INSURANCE**, and the name and address of its registered agent for service of process is

**KATHRYN ANN PLEVICH  
2801 VIA FORTUNA, SUITE 400  
AUSTIN, TEXAS 78746**

Signed this 19th day of February, 2008.

Charles T. Cole  
Hearing Officer