Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 03-28-05.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor $650.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The chemo denervation of muscle(s) right and left and Botulinum toxin Type B per 100 units were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees for dates of service 10-26-04 totaling $2,350.80 in accordance with the Medicare program reimbursement methodologies effective August 1, 2003 per Commission rule 134.202(c), plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order.

This Findings and Decision and Order are hereby issued this 2nd day of May 2005.

Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO decision

April 26, 2005

TEXAS WORKERS COMP. COMISSION
AUSTIN, TX 78744-1609

CLAIMANT:
EMPLOYEE:
POLICY: M5-05-2084-01
CLIENT TRACKING NUMBER: M5-05-2084-01/5278

Medical Review Institute of America (MRIoA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Workers Compensation Commission has assigned the above mentioned case to MRIoA for independent review in accordance with TWCC Rule 133 which provides for medical dispute resolution by an IRO.

MRIoA has performed an independent review of the case in question to determine if the adverse determination was appropriate. In performing this review all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the TWCC approved doctor list (ADL). The reviewer has signed a statement indicating they have no known conflicts of interest existing between themselves and the treating doctors/providers for the patient in question or any of the doctors/providers who reviewed the case prior to the referral to MRIoA for independent review.

Records Received:

RECORDS RECEIVED FROM THE STATE:
Notification of IRO Assigment dated 4/12/05 and received 4/13/05, 8/ pages

RECORDS RECEIVED FROM :
Request for information from MRIOA dated 4/12/05, 1 page
Medical Dispute Resolution request/response, undated, 5 pages
EOB's from Forte for DOS 10/26/04, 2 pages
Letter from North Texas Neurology Associates dated 1/4/05, 1 page
Duplicate copy of letter from North Texas Neurology Associates dated 1/4/05, 1 page
Letter from North Texas Neurology Associates dated 9/22/03, 1 page
Letter from North Texas Neurology Associates dated 5/28/03, 1 page
Letter from North Texas Neurology Associates dated 3/10/03, 1 page
Letter from North Texas Neurology Associates dated 1/20/03, 1 page
Letter from North Texas Neurology Associates dated 11/4/03, 1 page
Letter from North Texas Neurology Associates dated 3/5/02, 1 page
Letter from North Texas Neurology Associates dated 9/16/02, 1 page
Letter from North Texas Neurology Associates dated 8/29/02, 2 pages
Letter from North Texas Neurology Associates dated 8/13/02, 1 page
Medical exam report from Texas Back Institute dated 7/30/02, 7 pages
NTNA Myobloc injection record dated 2/8/05, 1 page
NTNA Botox injection charge sheet dated 2/8/05, 1 page
Progress note from Dr. Bartel dated 12/2/04, 1 page
NTNA Myobloc injection record dated 10/26/04, 1 page
NTNA Botox injection charge sheet dated 10/26/04, 1 page

Progress note from Dr. Bartel dated 10/26/04, 1 page
Progress note from Dr. Bartel dated 9/2/04, 1 page
NTNA Myobloc treatment record dated 2/24/04, 1 page
NTNA Botox injection charge sheet dated 2/24/04, 1 page
Progress note from Dr. Bartel dated 2/24/04, 1 page
Progress note from Dr. Bartel dated 1/28/04, 1 page
Progress note from Dr. Bartel dated 10/27/03, 1 page
Progress note from Dr. Bartel dated 4/21/03, 1 page
NTNA Myobloc treatment record dated 3/12/03, 1 page
Steroid Injection report dated 3/12/03 from Dr. Bartel, 1 page
Progress note from Dr. Bartel dated 11/18/02, 1 page
Steroid Injection report dated 10/18/02, 1 page
Lumbar Tendon Sheath Injection report dated 10/18/02, 1 page
Lumbar Tendon Sheath Injection report dated 10/4/02, 1 page
Steroid Injection report dated 10/4/02, 1 page
Lumbar Tendon Sheath Injection report dated 9/20/02, 1 page
Steroid Injection report dated 9/20/02, 1 page
Progress note from Dr. Bartel dated 8/20/02, 3/29/02, 1/17/02, 11/7/02, 8/29/02, 6 pages

Summary of Treatment/Case History:

The patient is a 58 year old man with a history of back surgery and low back pain. His neurologist, Dr. Danny Bartell includes in his history post-laminectomy syndrome, scoliosis, dystonia of the lumbar spine, and chronic pain syndrome. His exam of 10/26/04 was reported to show focal dystonia of the lumbar region with abnormal posture (retro-flexed). The patient has had multiple treatment modalities including narcotics, physical therapy, and epidural steroid injections. These modalities have either been unsuccessful or have only given transient, short term relief. He has been treated with Botox injections as far back as 3/12/03, according to the records. Apparently he has obtained relief in the past with these injections.

Questions for Review:

Date of service in dispute: 10/26/04:

1. Please address medical necessity for Item(s) in dispute: (#64614 - Chemo denervation of Muscle(s); RT and Left. #J0587- Botulinum Toxin Type B, per 100 Units).

Denied by carrier for medical necessity with V codes. (V code is the reason code on EOB)

Explanation of Findings:

Question 1: Please address medical necessity for Item(s) in dispute: (#64614 - Chemo denervation of Muscle(s); RT and Left. #J0587- Botulinum Toxin Type B, per 100 Units).

This patient has a long history of chronic low back pain. He has had spine surgery, analgesics, anti-inflammatories, epidural injections, and physical therapy. He has apparently failed these in the past. He has been receiving Botox injections since 2003. On the date of service in question, he relates that his last Botox injections, on 2/24/04, helped his pain. His exam showed focal dystonia and retro-flexed posture. Botox was again injected for symptomatic relief. Prior to this date, on 9/2/04, the patient had complained of low back pain, and his exam showed marked limited range of motion with tenderness along the lower lumbar region. After 10/26/04, his next Botox injection was on 2/8/05. It appears that the patient has a post laminectomy syndrome with chronic low back pain. He has abnormal reflexes and spasticity of his musculature is reported on exam. He has been shown to obtain symptomatic relief from Botox injections, having apparently failed all other treatment modalities. There is no reason to deny the Botox injections of 10/26/04. Nothing specific on this date seems to be any different from previous or subsequent dates of treatment with Botox. Botox is recognized in the literature as an alternative treatment of chronic pain when other modalities have failed. It is certainly preferable to chronic narcotic or steroid use.

Conclusion/Decision to Certify:

The Botox injections (#64614, #J0587) of 10/26/04 were medically necessary.

References Used in Support of Decision:

1. Botulinum toxin therapy in pain management. Raj PP- Anesthesiol Clin North Am- 01-DEC-2003;21(4):715-31.
2. Botulinum toxin in pain management of soft tissue syndromes. Smith HS- Clin J Pain- 01-NOV-2002;18(6 Suppl):S147-54.
3. Foster L, et al. Botulinum toxin A and chronic low back pain: a randomized, double-blind study. Neurology 2001;56(10):1290-3.

The physician providing this review is a diplomate in Neurology of the American Board of Psychiatry and Neurology. This reviewer is a member of the American Medical Association and the American Academy of Neurology. This reviewer has been in active practice since 1980.
MRIoA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the treating provider, payor and/or URA, patient and the TWCC.

It is the policy of Medical Review Institute of America to keep the names of its reviewing physicians confidential. Accordingly, the identity of the reviewing physician will only be released as required by state or federal regulations. If release of the review to a third party, including an insured and/or provider, is necessary, all applicable state and federal regulations must be followed.

Medical Review Institute of America retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by MRIoA clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the standards of the American Accreditation Health Care Commission (URAC), and/or other state and federal regulatory requirements.

The written opinions provided by MRIoA represent the opinions of the physician reviewers and clinical advisors who reviewed the case. These case review opinions are provided in good faith, based on the medical records and information submitted to MRIoA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Medical Review Institute of America assumes no liability for the opinions of its contracted physicians and/or clinician advisors. The health plan, organization or other party authorizing this case review agrees to hold MRIoA harmless for any and all claims which may arise as a result of this case review. The health plan, organization or other third party requesting or authorizing this review is responsible for policy interpretation and for the final determination made regarding coverage and/or eligibility for this case.

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