Specialty Independent Review Organization, Inc.

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER:

SOAH DOCKET NO. 453-05-5353.M2

March 29, 2005

Hilda Baker
TWCC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient:
TWCC #:
MDR Tracking #: M2-05-0867-01
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the proposed care 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.

This case was reviewed by a licensed Medical Doctor with a specialty in Anesthesia and Pain Management. The reviewer is on the TWCC ADL. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

According to the medical records, the patient sustained a work injury on ___ and was first evaluated by Dr. Carrasco on 07-01-96. His mechanism of injury was a fall on his left side with his arm outstretched. He was seen by his primary care physician the next day. He was then referred to Dr. Fox, who performed an MRI and recommended shoulder surgery. He had left shoulder arthroscopy on 03-14-96 with postoperative physical therapy. The patient stopped working on 05-22-96 due to persistent pain. He underwent a cervical MRI, which had multilevel

pathology, and remained with conservative treatment. In his evaluation of 08-01-96 by Dr. Carrasco, he presented “muscular” pain in the left distribution of the cervical, thoracic and lumbar areas. Dr. Carrasco states that he believes his condition is primarily myofascial with trigger points. He refers to the results of the cervical MRI with bulging discs at C4-C7, although he refers some history of a C3-C4 disc problem (it is unknown if this is pre or post injury). His physical examination does not refer to cervical evaluation and focuses on the following muscles: rhomboid, iliocostalis, thoracic paraspinal and the levator scapulae muscles, which present with trigger point acute tenderness. The patient also referred decreased sensation to left upper extremity.

After this, there is a 5-year gap in the patient’s medical records. The next medical record makes no reference to the gap. I do not have any diagnostic results (MRI or EMG) included for this evaluation. The next office note is of 06-12-01 by Dr. Carrasco and he refers that the patient did “very well” after the botox chemodenervation in 11-00. After this, the pain returned 5 months later. He was placed on Zoloft and evaluated for chronic pain treatment. The patient presented a letter, which expressed thoughts about suicide but states that he did not have plans nor was a danger to himself or others. The patient’s psychological / psychiatric symptoms were continued by Dr Lehberger. Despite the various outpatient procedures, there are no VAS scores or % of improvement after injections for reference until 2004. There is some reference to improved range of motion of the left shoulder after botox interventions. In 09-18-01, Dr. Carrasco recommended 2 CESI, which he underwent before 12-01 with little relief. At this time, his medications were Zoloft and Baclofen. Seven months later, on 07-09-02, he now takes Darvocet, with no relief, and continues with Dr. Lehberger. Again, there is a mention of suicidal issues. His medications were changed to Neurontin and Ultracet. Two months later, the patient’s pain medication was reported as Hydromorphone BID with Darvocet 12 tab per day, with poor pain control. On 10-21-03, the patient was placed on Oxycontin 20 BID and this was discontinued three months later. The office note of 02-24-04 refers that the patient is post myoneural injections on 01-25-04 and had 70-80% relief of pain. The last note of 11-30-04 states that his medications are currently Darvocet qid and Theragesic cream.

In terms of operative procedures, the patient has undergone four sessions of botox chemodenervations with EMG guidance (8 sites) by Dr. Carrasco with the following dates: 06-21-01, 12-23-02, 05-28-03, and 05-27-04. He also underwent three sessions of myoneural injections (5-6 site) on 01-28-04, 11-06-02, and 02-27-02. He had a CESI with myoneural injections on 10-04-01 with Dr. Carrasco. He underwent a cervical myeolgram on 10-18-01, again with Dr. Carrasco, although no post CT scan is available for review. In the operative note for the myelogram, it states that he has three-level bulging discs C4-C7, but there is no summary of findings.

Records Reviewed:

Records from the carrier: Medical Exchange IRO letter dated 03-14-05 to Wendy Perelli, SIRO; Notification of IRO Assignment dated 03-08-05; Receipt Notification of MDR Request dated 03-08-05; Initial Pre-Authorization denial dated 12-07-04; Reconsideration Pre-Authorization denial dated 12-14-04; Pre-Authorization Approval of 8-site botox

chemodenervation dated 04-12-04; Pre-Authorization Approval of 4 outpatient trigger point injections dated 01-23-04; Pre-Authorization Approval of 8-site botox chemodenervation dated 05-20-03; Pre-Authorization Approval of 8-site botox

chemodenervation dated 12-16-02; Office notes from Dr. A.T. Carrasco of: 11-30-04, 09-21-04, 06-29-04, 04-06-04, 02-24-04, 01-20-04, 10-21-03, 09-09-03, 07-08-03, 05-13-03, and 02-11-03; Operative note of 12-23-02 for 8-site botox chemodenervation by Dr. Carrasco; Operative note of 05-28-03 for 8-site botox chemodenervation by Dr. Carrasco; Operative note of 01-28-04 for 6 site myoneural injections with IV sedation by Dr. Carrasco; Operative note of 05-27-04 for 8-site botox chemodenervation by Dr. Carrasco

Records from the doctor: TWCC IRO Review Assignment dated 03-09-05; Receipt Notification of MDR Request dated 03-08-05; Office notes from Dr. A.T. Carrasco of: 11-30-04, 09-21-04, 06-29-04, 04-06-04, 02-24-04, 01-20-04, 10-21-03, 09-09-03, 07-08-03, 05-13-03, 02-11-03, 12-10-02, 10-08-02, 07-09-02, 06-03-02, 04-09-02, 02-12-02, 12-11-01, 10-30-01, 09-18-01, 08-07-01, 06-12-01, 08-01-1996; Operative note of 06-21-01 for 8-site botox chemodenervation by Dr. Carrasco; Operative note of 10-04-01 for Cervical Myelogram + Myoneural injections by Dr. Carrasco; Operative note of 10-18-01 for Cervical Myelogram by Dr. Carrasco; Operative note of 02-27-02 for 5 site myoneural injections with IV sedation by Dr. Carrasco; Operative note of 11-06-02 for 5 site myoneural injections with IV sedation by Dr. Carrasco; Operative note of 12-23-02 for 8-site botox chemodenervation by Dr. Carrasco; Operative note of 05-28-03 for 8-site botox chemodenervation by Dr. Carrasco; Operative note of 01-28-04 for 6 site myoneural injections with IV sedation by Dr. Carrasco; Operative note of 05-27-04 for 8-site botox chemodenervation by Dr. Carrasco

REQUESTED SERVICE

The items in dispute are the prospective medical necessity of up to 8 outpatient sessions of Botox chemo denervation injections to the back, cervical and shoulders.

DECISION

The reviewer agrees with the previous adverse determination.

BASIS FOR THE DECISION

Unfortunately at this stage in medical necessity review, the responsibility of establishing medical necessity lies with the requesting physician. The reviewer states that the rationale of medical necessity has not been obtained. The medical records provided represent only an incomplete clinical picture and treatment evolution. There is also no summary available to reference the treatment modalities that have failed with this patient. This patient presents with a chronic pain syndrome of long evolution. Whereas the factor of time and chronicity should not be related to the medical necessity of the request, the appropriate treatment guidelines and standard medical practices do play a major role. In the case of ___, there is reference to significant cervical and

left shoulder pathologies that are significant comorbid factors in this case. Yet, there has been minimal mention of attention to these distributions. From the medical records available, it seems that after one failed trial of CESI treatment, this distribution not been readdressed and certainly the left shoulder was not taken into account after the surgery. His treatment for at least the last three years has been intermittent intervention of botox chemodenervation and myoneural injections, which have provided short-lived relief and no increase in functional capacity. This would indicate then that in all medical probability, the muscular pain that this gentleman presents is in fact secondary to a more significant cervical or left shoulder pathology.

The literature reviewed does support the use of botox procedures to assist with muscular and neural pain. However, it states that the relief is an average of 3-4 months after applications. The literature also states that there have not been sufficient studies to determine efficacy in lower back or large muscle group pain. It seems that this gentleman has been treated intermittently with a short-term solution to a chronic problem, and there is not medical evidence in the documentation provided or the medical literature to support the repeated chronic use of the botox procedure with patients of this particular population.

In addition to all of this, this patient presents with a 9-year-old injury and the reviewer feels that the prolonged time off work and of inactivity, have been significantly detrimental for this gentleman. He has developed, in all probability, a significant clinical depression secondary to chronic pain. Dr. Lehberger has managed his psychological symptoms, but there are no reports or summaries as to how these significant problems have been addressed. A patient with such significant psychological barriers is not an appropriate candidate for interventional procedures especially if he has not presented any functional benefit from the previous applications of the same procedure.

In summary, the requesting physician has not provided sufficient medical rationale to establish this procedure as medically necessary. The existing literature does not present evidence of the efficacy of prolonged or repeated use in this patient population. This particular patient is suffering secondary psychological symptoms from his prolonged time of work and difficult pain management, which affects his candidacy for any interventional procedures. There is also a strong factor of significant underlying anatomical pathology that may not have been thoroughly addressed.

References:

(1) Ghosh, B; Das SK. *Botulinum toxin: a dreaded toxin for use in human being*. J Indian Med Assoc 2002 Oct; 100 (10): 607-8, 610-2, 614.

(2) Childers, MK. *The importance of electromyographic guidance and electrical stimulation for injection of botulinum toxin.* Phys Med Rehabil Clin N Am 2003 Nov; 14(4): 781-92.

(3) Lew, MF. *Review of the FDA- approved uses of botulinum toxins, including data suggesting efficacy in pain reduction*. Clin J Pain 2002 Nov-Dec; 18(6 Suppl): S142-6.

(4) Sheean, G. *Botulinum toxin for the treatment of musculoskeletal pain and spasm*. Curr Pain Headache Rep 2002 Dec; 6(6): 460-9.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,

Wendy Perelli, CEO

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

In the case of prospective ***spinal surgery*** decision, a request for a hearing must be made in writing and it must be received by the TWCC Chief Clerk of Proceedings within **10** days of your receipt of this decision. (20 Tex. Admin. Code 142.5(c)).

In the case of other ***prospective (preauthorization) medical necessity*** disputes a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5(d). A request for a hearing should be sent to: Chief Clerk of Proceedings, Texas Worker's Compensation Commission, P.O. Box 17787, Austin, TX 78744. The fax number is 512-804-4011. A copy of this decision should be attached to the request.

The party appealing this decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute, per TWCC rule 133.308(u)(2).

Sincerely,

Wendy Perelli, CEO

I hereby certify, in accordance with TWCC Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the carrier, requestor, claimant (and/or the claimant's representative) and the TWCC via facsimile, U.S. Postal Service or both on this 29th day of March 2005.

Signature of Specialty IRO Representative:

Name of Specialty IRO Representative: Wendy Perelli