

**MEDPRO CLINICS,**  
**Petitioner**

**V.**

**METROPOLITAN TRANSIT**  
**AUTHORITY OF HARRIS COUNTY,**  
**Respondent,**

**BEFORE THE STATE OFFICE**

**OF**

**ADMINISTRATIVE HEARINGS**

**DECISION AND ORDER**

Medpro Clinics (Provider) seeks reimbursement for passive physical therapy modalities provided to an injured worker. As reflected in the Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes reimbursement is not warranted because Provider failed to prove the services were medically necessary for the treatment of the injured worker.

Jurisdiction and notice were not disputed. They are addressed in the Findings of Fact and Conclusions of Law.

**I. Findings of Fact**

1. Claimant, an injured worker, suffered a compensable injury to his left elbow on \_\_\_\_.
2. At the time of Claimant's injury, Metropolitan Transit Authority of Harris County (Carrier) was the workers' compensation carrier for Claimant's employer.
3. Surgery was performed on Claimant's left elbow on September 8, 2003.
4. Following his surgery, Claimant received seven weeks of physical therapy from Medpro Clinics (Provider) at the rate of three sessions per week. The physical therapy treatment included such passive modalities as electrical stimulation, massage, and ultrasound therapy. The treatments, which ended November 12, 2003, were terminated by Provider based on a November 14, 2003, evaluation.
5. Carrier denied reimbursement for the passive modalities provided on November 7, 10, and 12, 2003, as not medically necessary and as exceeding a yearly allowance for such services.
6. In response to Carrier's denial of reimbursement, Provider requested medical dispute resolution with the Texas Workers' Compensation Commission.
7. An Independent Review Organization concluded Provider was not entitled to reimbursement for the disputed services.

8. Based on the IRO decision, Provider requested a hearing before the State Office of Administrative Hearings.
9. Notice of the hearing in this case was sent to all parties more than 10 days before the hearing. The notice contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
10. From October 10, 2003, to November 14, 2003, the pain level in Claimant's left elbow did not decrease.
11. Claimant exhibited no significant improvement to his injured elbow between October 17, 2003, and November 14, 2003.
12. Two to four weeks of passive physical therapy are reasonably necessary in the acute phase of recovery following surgery.
13. Two to four additional weeks of passive physical therapy as an adjunctive service to active physical therapy may constitute reasonably necessary service.
14. The disputed services were provided to Claimant as a primary treatment beyond six weeks of treatment and outside the bounds set forth in Findings Of Fact 12 and 13.

## **II. Conclusions of Law**

1. SOAH has jurisdiction over this proceeding pursuant to '413.031(k) of the Act and TEX. GOV'T CODE ANN. ch. 2003.
2. Adequate and timely notice of the hearing was provided in accordance with TEX. GOV'T CODE ANN. "2001.051 and 2001.052.
3. Provider failed to prove the disputed services were reasonably required by the nature of the claimant's injury, cured or relieved the effects naturally resulting from the compensable injury, promoted Claimant's recovery, or enhanced Claimant's ability return to or retain employment. TEX. LAB. CODE ANN. '408.021.
4. The disputed services were not medically necessary to treat Claimant's compensable injury.
5. Provider is not entitled to reimbursement for the disputed services.

**ORDER**

**IT IS ORDERED** that the reimbursement claim of Medpro Clinics for the disputed physical therapy services, provided to Claimant on November 7, 10, and 12, 2003, is denied.

**Signed December 3, 2004.**

---

**GARY W. ELKINS  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**