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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of MARIELA HOLDER, Appellant,

v.

OFFICE FOR PEOPLE WITH DEVELOPMENT DISABILITIES et al., Respondents

WORKERS' COMPENSATION BOARD, Respondent.

April 27, 2023

Facts: The claimant's husband worked as a house manager in March of 2020. The decedent began experiencing symptoms of COVID-19 on March 13, 2020, a scheduled vacation day. The decedent passed away from COVID-19 on March 26, 2020. The claimant filed a claim for death benefits in July of 2020. The WCLJ established the claim, but the Board Panel reversed finding there was insufficient evidence to conclude there was prevalence in the decedent's work environment prior to the onset of symptoms.

Holding: *Affirmed.*

Discussion: According to guidance offered by the Board, a claimant may meet the burden of proof to demonstrate an accident occurred in the course of employment by demonstrating a specific exposure or prevalence of COVID-19 in the workplace so as to present an elevated risk of exposure. In this case, there was no evidence of a specific exposure and the claimant failed to demonstrate prevalence. The Court cited the fact that no other employees or those living in the home at the time of the claimant's contracture were sick or had tested positive for COVID-19.