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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of

MILTON PACHECO, Appellant,

v.

FEDCAP, Respondents,

WORKERS' COMPENSATION BOARD, Respondent.

March 16, 2020

Facts: This is an established claim for injuries to the neck, back, chest, ribs, jaw and both shoulders. The claim became ripe of the question of maximum medical improvement and permanency. In a Reserved Decision the Law Judge determined that the claimant had reached MMI and made findings on permanency. The claimant appealed but the appeal was denied for failure to comply with 12 NYCRR 300.13 (b) (1).

Holding: Affirmed.

Discussion: Adoption of reasonable procedural rules by the Board does not constitute an abuse of discretion. Here, the appealing party filed the appeal with an outdated RB-89 form.