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Supreme Court, Appellate Division, Third Department, New York

In the Matter of

THOMAS CZECHOWSKI, Appellant
v
MCS REMEDIAL SERVICES, Respondents
and
WORKERS' COMPENSATION BOARD

Decided September 26, 2019

Facts: This is an established claim for injuries to the left foot and back. The claimant initially treated with Dr. Bagnall and Dr. Moreland and was diagnosed with disc degeneration throughout the spine. The claimant then sought treatment with Dr. Capicotto who performed surgery to the claimant's cervical spine. The same doctor then requested a lumbar discectomy and fusion from L2-S1. A record review was performed and the request was denied based on a lack of instability and indication of conservative treatment. Deposition testimony was directed and the WCLJ authorized the procedure. The Board Panel reversed crediting the testimony of carrier's Dr. Mehta and that the surgery was not authorized under the guidelines. The claimant appealed.

Holding: Affirmed.

Discussion: The Board Panel's decision was based upon substantial evidence.