



**RECOMMENDATION FOLLOWING AN APPLICATION FOR REVIEW OF THE INSURER'S WORK CAPACITY DECISION PURSUANT TO SECTION 44(1)(c) OF THE *WORKERS COMPENSATION ACT 1987*.**

**SUMMARY:**

- a. The application for procedural review was not made within time and WIRO has no jurisdiction.**
- b. The application is therefore dismissed.**

**Recommendation**

1. The applicant seeks procedural review of a work capacity decision made by the Insurer on 8 August 2013. The decision advised the applicant that his weekly payments of compensation would cease on 15 November 2013. The applicant sought internal review and Internal Review Decision (IRD) was dated 9 October 2013. He then sought Merit Review on or about 27 November 2013. The Authority issued their findings and recommendations on 2 July 2014. The applicant made application to this office on 16 September 2014.
2. *Section 44 (3) of the Workers Compensation Act 1987 (the 1987 Act)* requires the applicant to make an application for review to the Independent Review Officer within 30 days of receipt of a decision in the form *approved by the Authority*.
3. The applicant did not apply for procedural review until 76 days after the Merit Review recommendation.
4. There is no suggestion that the applicant did not receive the merit review recommendation. The applicant did not make any submissions as to the reason for the late filing of his application.



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5. WIRO has no jurisdiction to make a recommendation since the application is out of time and there is no discretion within the section to allow for exceptions.

Tracey Emanuel  
Delegate of the WorkCover Independent Review Officer  
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