

**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 dismissed.**

The Decision

1. The applicant seeks procedural review of a work capacity decision made by the Insurer on 19 November 2013. The applicant sought internal review from the Insurer which made a decision dated 24 March 2014.
2. The applicant then sought Merit Review on or about 21 July 2014 and the Authority determined that it did not have jurisdiction to undertake a review of the work capacity decision as the application for review was not received within 30 days of the date of the internal review. The letter from the Authority advising the applicant of this determination was dated 31 July 2014.
3. The application for procedural review from the applicant was dated 11 December 2014.
4. Section 44 (3) (a) of the *Workers Compensation Act 1987* 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*.
5. The applicant did not apply for a procedural review until 133 days after the Merit Review correspondence. The application has not been made within the proper time frame.

Finding



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6. WIRO has no jurisdiction to make a recommendation since the application is out of time and there is no discretion within the Section 44 of the Workers Compensation Act 1987 to allow for exceptions.

Recommendation

7. The application for procedural review was not made within time and WIRO has no jurisdiction.
8. The application is dismissed.

Tracey Emanuel
Delegate of the WorkCover Independent Review Officer
15 January 2015