

State of New York  
Supreme Court, Appellate Division  
Third Judicial Department

Decided and Entered: April 16, 2026

CV-24-1580

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In the Matter of the Claim of CARLOS  
VILLALBA, as Executor of the  
Estate of RAMON GALEAS,  
Deceased, and as Guardian of  
DANIEL GALEAS,  
Claimant,

v

MEMORANDUM AND ORDER

RITE AID PHARMACY et al.,  
Appellants.

WORKERS' COMPENSATION  
BOARD,  
Respondent.

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Calendar Date: March 24, 2026

Before: Clark, J.P., Aarons, Ceresia, McShan and Corcoran, JJ.

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*Goldberg Segalla LLP*, Rochester (*Bradford J. Reid* of counsel), for appellants.

*Letitia James*, Attorney General, New York City (*Alison Kent-Friedman* of counsel), for respondent.

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Aarons, J.

Appeal from a decision of the Workers' Compensation Board, filed August 21, 2024, which ruled, among other things, that decedent's son was dependent on decedent at the time of decedent's death pursuant to Workers' Compensation Law § 16.

In March 2020, Ramon Galeas (hereinafter decedent) died after contracting COVID-19 while working. Decedent was not married at the time of his death and he had one child (born in 1991, hereinafter the son). Claimant, the son's half brother and legal guardian,<sup>1</sup> filed a claim for workers' compensation death benefits on behalf of decedent's estate and the son as a dependent. Following various hearings, a Workers' Compensation Law Judge (hereinafter WCLJ) found that decedent sustained a work-related injury resulting in his death but determined that the son was not a dependent of decedent. The WCLJ awarded decedent's estate a \$50,000 death benefit and funeral expenses. Upon review, the Workers' Compensation Board modified the WCLJ's decision, finding that the son was dependent upon decedent. In so finding, the Board noted that, in order to be eligible for death benefits, claimant was also required to demonstrate that the son has a total and permanent incapacity. Finding that the record needed to be more fully developed on this issue, the Board returned the matter for that purpose, rescinding, without prejudice, the \$50,000 death benefit award. The employer and its workers' compensation carrier appeal.

Initially, we disagree with the Board's contention that this appeal has been improperly taken from an interlocutory decision. Whether the son was dependent upon decedent is a potentially dispositive threshold legal issue (*see* Workers' Compensation Law § 16 [1-a]; *Matter of Plew-Jourdanais v Adirondack Heating & Frost Insulators, Inc.*, 80 AD3d 1111, 1111-1112 [3d Dept 2011]). "Our policy to discourage piecemeal review of the main issues in a compensation claim should not be applied in such a manner as to preclude, as in this case, the prompt review of threshold legal issues which may be dispositive" (*Matter of Howard v Stature Elec., Inc.*, 72 AD3d 1167, 1169 [3d Dept 2010] [internal quotation marks, brackets, ellipsis and citations omitted], *aff'd* 20 NY3d 522 [2013]).

Turning to the merits, Workers' Compensation Law § 16 provides, as relevant here, that a surviving dependent child of any age who is physically disabled is entitled to 66 $\frac{2}{3}$ % of a decedent's average weekly wage (*see* Workers' Compensation Law § 16 [3-a]). "This death benefit is payable to dependent children of any age who are mentally incapacitated as well, provided the incapacity is total and permanent" (*Matter of Plew-Jourdanais v Adirondack Heating & Frost Insulators, Inc.*, 80 AD3d at 1111; *see Matter of Kelly v Sugarman*, 12 NY2d 298, 300 [1963]). "The issue of dependency is a factual question for resolution by the Board and generally will be sustained if the determination

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<sup>1</sup> Claimant was also the executor of decedent's estate.

is supported by substantial evidence" (*Matter of Tyrell v Bouyea Baking Co.*, 194 AD2d 832, 833 [3d Dept 1993] [citations omitted]; see *Matter of Ellis v Cyclone Coasters*, 269 AD2d 649, 649-650 [3d Dept 2000]). "Substantial evidence is a minimal standard and demands only that a given inference is reasonable and plausible, not necessarily the most probable" (*Matter of Vaughan v Heritage Air Sys., Inc.*, 208 AD3d 1562, 1564 [3d Dept 2022] [internal quotation marks and citations omitted]; accord *Matter of Freyta v Calvin Maintenance Inc.*, 220 AD3d 1036, 1038 [3d Dept 2023]). "In reviewing determinations of the Board regarding dependency for purposes of entitlement to death benefits pursuant to Workers' Compensation Law § 16, we have consistently based our decisions on the existence of some proof that the loss of decedent's financial contribution had an adverse or detrimental effect on the claimant" (*Matter of Plew-Jourdanais v Adirondack Heating & Frost Insulators, Inc.*, 80 AD3d at 1112 [citations omitted]; see *Matter of Umanzor v General Telecom*, 9 AD3d 591, 592 [3d Dept 2004], *lv denied* 5 NY3d 703 [2005]).

Claimant testified that the son lives with him and their mother and that he became the son's legal guardian when the son turned 21 years old. According to claimant, the son is autistic and needs constant care. Claimant works as a cashier at a drugstore, the same job that decedent had prior to his death. The son's mother does not speak English, and she stopped working in 1998 to stay home and care for the son, leaving claimant as the sole wage earner. Claimant further testified that decedent would visit the son weekly and take him out to dinner. Decedent would also buy the son clothes and he provided \$300 a month in cash to the son's mother, which was used to help pay for the son's "regular" expenses. According to claimant, decedent rented out a room in his apartment in order to help him support the son. The record reflects that decedent also provided health insurance for the son through his job at the drugstore. "As the sole arbiter of witness credibility, the Board has broad authority to resolve factual issues based on credibility of witnesses and draw any reasonable inference from the evidence in the record" (*Matter of Fonseca v Platinum Carpentry Inc.*, 238 AD3d 1444, 1447 [3d Dept 2025] [internal quotation marks, brackets and citations omitted]; see *Matter of Duta-Zumba v Urban Atelier Group, LLC*, 242 AD3d 1264, 1265 [3d Dept 2025]). Deferring to the Board's resolution of the credibility of claimant's testimony, its determination that the loss of decedent's financial contributions has a detrimental effect on the son is supported by substantial evidence and its resultant finding of a dependency will not be disturbed (see *Matter of Gigia v Berger Indus.*, 127 AD2d 959, 960 [3d Dept 1987]; *Matter of Torres v Laurel Hill Nursery*, 98 AD2d 904, 904 [3d Dept 1983], *affd* 64 NY2d 895 [1985]).

Clark, J.P., Ceresia, McShan and Corcoran, JJ., concur.

ORDERED that the decision is affirmed, without costs.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive style with a large, stylized 'R' and 'M'.

Robert D. Mayberger  
Clerk of the Court