




DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS
WORKERS' COMPENSATION SECTION

MEMORANDUM

TO: The Board for Administration of Subsequent Injury Account for Self-Insured Employers

FROM: Jodi McCollins, Chief Administrative Officer, Workers' Compensation Section 

SUBJECT: Administrator's Recommendation on Request for Reimbursement from the Subsequent Injury Account Pursuant to NRS 616B.557

Claim No: 1154-WC-18-0000079
Date of Injury: 06/23/2018
Insurer: Nevada Yellow Nevada Checker & Nevada Star Cab Corporation
Employer: Yellow Checker Star Transportation
Third-Party Administrator: Corvel Enterprise Comp, Inc.
Submitted By: Marisa L. Mayfield

DATE: July 16, 2025

ADMINISTRATOR'S RECOMMENDATION:

It is the Administrator's recommendation to **accept** this initial request pursuant to NRS 616B.557 for the **cervical spine** only. The lumbar spine and thoracic spine do not meet the requirements of the statute and have not been requested for consideration under this claim by the insurer.

AMOUNT OF REIMBURSEMENT:

The total amount requested for reimbursement is \$81,396.97. The amount of verified costs is \$30,977.48

BACKGROUND:

This request was received from Marisa L. Mayfield with Hooks Meng & Clement on April 10, 2024.

PRIOR HISTORY:

Prior medical documentation is for a non-industrial cervical spine condition. According to medical reports, including the Independent Medical Evaluation and Functional Capacity Evaluation, conducted as part of the current claim, the employee underwent a two-level cervical spine fusion in the 1990s performed by an unspecified physician. No records pertaining to this procedure have been provided and no additional medical documentation has been submitted for review.

PRESENT CLAIM:

This employee was hired by Yellow Checker Star Transportation on March 2, 2015.

On June 23, 2018, while in the course and scope of her employment, the injured employee was involved in a motor vehicle accident. She subsequently visited UMC Quick Care, where she reported cervical neck pain and was diagnosed with muscle strain. A cervical spine CT was performed which revealed postoperative change of the spinal fusion C4-C6 level with suggestion of nonunion at the C5-C6 level.

On June 27, 2018, a cervical spine MRI was performed which revealed fixation hardware noted anteriorly from C4 through C6 with hardware and multilevel degenerative changes identified with areas of stenosis.

On July 18, 2018, Dr. Vater evaluated the injured employee. He noted the injured employee was suffering from cervical neck pain. The employee had previously undergone a cervical fusion procedure at the University of Chicago, involving C4-C5 fusion; however, it is possible that the intended procedure was a C4-C6 fusion. During the evaluation, Dr. Vater noted the presence of screws extending into the C5-C6 intervertebral disc, which appeared to suggest pseudoarthrosis. He recommended a surgical revision of the cervical spine, including hardware removal, discectomy at C5-C6, and fusion extension from C4 to C6, to address the suspected pseudoarthrosis or intraoperative damage to the disc space related to hardware placement.

On February 22, 2019, Dr. Lee evaluated the injured employee. He noted aggravation of underlying pre-existing cervical pseudoarthrosis at C5-C6, which is consistent with the findings of Dr. Vater. Dr. Lee does not agree that the fusion at C3-C4 and C6-C7 levels were related to the motor vehicle accident that occurred on June 23, 2018. There was some underlying stenosis at levels C3-C4, C6-C7. It was asymptomatic relation to the subject motor vehicle accident. Therefore, cervical fusion and decompression at these levels was not warranted.

On November 18, 2021, Dr. Razsadin prepared an Independent Medical Examination (IME) report, noting that the evaluation was complicated and interesting. He observed that the injured employee had undergone a prior two-level fusion. Based on this, he estimated a 12% whole person impairment related to the pre-existing condition, which should be considered for apportionment purposed.

There are two differing opinions regarding the causation and extent of impairment. Dr. Garber

indicated that the injured employee's condition represented a progression of the original injury, requiring a four-level fusion. This meant an additional two levels beyond the initial two-level fusion, resulting in a four-level fusion. Dr. Lee observed that there was a pseudofusion at C5-6 and opined that only the C5-6 level is compensable in this case, with a single-level fusion being relevant.

Dr. Razsadin went on to note that it is this evaluator's opinion, the most straightforward and reasonable approach is to use the Range of Motion Method for the cervical spine assessment. This involved assigning full percentage impairment for the entire four-level fusion and then subtracting the impairment attributed to the prior two-level fusion, which is 12%. The calculated impairment would be 27%, minus 12%, resulting in a net 15% whole person impairment related to the worsening of the injury. Dr. Razsadin concluded that the cervical spine impairment is industrially related, with apportionment consistent with a two-level fusion accounting for 12% whole person impairment.

It is to be noted that no medical documentation was provided for the periods from July 19, 2018 through February 21, 2019; February 23, 2019 through November 17, 2021; and November 19, 2021 through January 4, 2023.

On January 5, 2023, Dr. Vater evaluated the injured employee. He noted the injured employee was diagnosed with a nonunion at C5-6 and C6-7. She sustained a cervical spine injury while working at a taxicab company, resulting from two rear-ended collisions. She previously underwent cervical fusion surgery at C5-6 and C6-7, which developed into pseudoarthrosis at these levels. The injured employee was seen by Dr. Garber, who performed a nonindustrial fusion on the upper cervical spine, resulting in a solid fusion at what appears to be C3-4 and C4-5. There may have been prior fusion or auto-fusion at these levels. The nonunion persists at C5-6 and C6-7, with instrumentation present at C6-7, which was performed in Illinois and these levels have not fused. Dr. Vater recommended a cervical spine CT and MRI.

On January 18, 2023, a cervical spine MRI was performed which revealed a history of prior C3-4 anterior cervical discectomy and fusion (ACDF), C4-5 interbody fusion, C5-6 and C6-7 ACDF. The C5-6 level shows no evidence of recurrent disc protrusion; however, there is a leftward eccentric disc bulge causing ventral cord effacement and moderate biforaminal stenosis. The C6-7 level, previously addressed with ACDF, demonstrates a concentric disc bulge with ventral cord effacement and moderate to mild left and right foraminal stenosis, respectively. The residual central canal diameter measures approximately 7 mm. Additionally, a cervical spine CT scan confirmed prior C3-4 ACDF and C4-5 interbody fusion, with intact hardware at all operated levels. The imaging indicates multilevel spondylosis, providing improved visualization of the spinal canal contents and neural foramina compared to the recent MRI.

On April 27, 2023, a Functional Capacity Evaluation (FCE) was performed by Bearne Leavitt, PT. Mr. Leavitt observed that reports of a previous stroke in 2020 appeared to be a contributing factor in the determination of overall work capabilities. During the evaluation and work and work simulation testing, decreased mobility in the cervical spine was noted. The individual's observed weakness and limited mobility suggest that she may be unable to safely perform all pre-injury job duties. It was also understood that the injured employee was currently not working.

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On May 16, 2023, Dr. Overland performed a permanent partial disability (PPD) evaluation of the cervical spine. The injured employee was found to have a 37% whole person impairment (WPI) for the cervical spine. Dr. Overland noted that apportionment is appropriate in this case, considering the injured employee's prior non-industrial two-level fusion performed in 1995, which is assigned a 12% WPI. There are no medical records indicating impairment due to loss of motion or nerve deficits. Consequently, the current WPI for the cervical spine calculated as 37% minus 12%, resulting in a 25% WPI for the cervical spine.

On June 1, 2023, Dr. Vater evaluated the injured employee. He noted that the FCE performed on April 27, 2023, was valid. According to the "Physical Labor Demand" category, her work classification is sedentary. The injured employee's capabilities do not meet her job requirements. Dr. Vater noted that the injured employee is not interested in pursuing further treatment and agreed that additional medical treatment is not necessary at this time. He also noted that the injured employee is stable, ratable and has reached maximum medical improvement, with no further appointments required.

On June 18, 2023, Dr. Razsadin performed a PPD file review. He opined that the cervical spine findings appeared to be more severe than observed during the examination. Based on his review, he reaffirmed his initial assessment of a 19% impairment rating, considering it appropriate for this claimant.

On June 19, 2023, Dr. Razsadin performed an amended IME. His amendments did not alter his previous rating of the cervical spine.

This request included medical reporting and/or reimbursement for expenses associated with the cervical spine:

- Office visits at University Medical Center on June 23, 2018, June 24, 2018, June 25, 2018, July 3, 2018, July 6, 2018 and July 21, 2018;
- Diagnostic testing on January 18, 2023, March 9, 2023 and March 16, 2023;
- Physical therapy with Achive Physical Therapy on July 9, 2018;
- Physical therapy with Cory C. Higbee on July 11, 2018, July 16, 2018 and July 17, 2018;
- Office visits with Dr. Vater with Las Vegas Neurosurgery Orthopaedics on January 5, 2023, February 23, 2023 and March 16, 2023;
- Functional Capacity Evaluation on April 27, 2023;
- Independent Medical Exam on November 18, 2021;
- VOC Rehabilitation Maintenance on November 2, 2023 and November 6, 2023;
- VOC Rehabilitation Counselor Services on July 19, 2023, August 17, 2023, September 27, 2023 and November 1, 2023 and
- PPD installment payments on June 21, 2023, June 28, 2023, July 27, 2023, August 29, 2023, September 27, 2023, October 27, 2023, November 3, 2023, and November 6, 2023.

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FINDINGS:

A. NRS 616B.557 (1) states that if an employee of a self-insured employer has a permanent physical impairment from any cause or origin and incurs a subsequent disability by injury arising out of and in the course of his employment which entitles him to compensation for disability that is substantially greater by reason of the combined effects of the pre-existing impairment and the subsequent injury than that which would have resulted from the subsequent injury alone, the compensation due must be charged to the Subsequent Injury Account for Self-Insured Employers in accordance with regulations adopted by the Board.

The medical reporting provided supports an increase in the costs of what would normally be expected from a cervical spine injury. The injured employee had radiological tests and epidural steroid injections. The documents presented support additional compensation was a result of the combined effects of his pre-existing impairment and the subsequent injury.

On November 14, 2022, a Decision and Order was issued by Appeals Officer Georganne W. Bradley, Esq., remanding the case with instructions to issue a new claim acceptance determination which contemplates the acceptance of the aggravation of the claimant's preexisting C5-6 pseudoarthrosis and authorize the surgery performed as a result of the industrial accident in a manner consistent with the terms outlined in the Decision and Order.

On December 13, 2022, Belinda Hutchinson, Claims Specialist with Corvel issued a letter in accordance with Appeal 1905873/1906702-GB. The letter indicated that, pursuant to the Decision and Order, Corvel was ordered reevaluate and issue a new claim determination regarding claim acceptance. This determination was to include the acceptance of the aggravation of the preexisting C5-6 pseudoarthrosis and to authorize the surgery performed as a result of the industrial accident.

Therefore, NRS 616B.557 (1) has been satisfied.

B. NRS 616B.557 (3) states that as used in this section, "permanent physical impairment" means any permanent condition, whether congenital or caused by injury or disease, of such seriousness as to constitute a hindrance or obstacle to obtaining employment or to obtaining reemployment if the employee is unemployed. For the purposes of this section, a condition is not a "permanent physical impairment" unless it would support a rating of permanent impairment of 6 percent or more of the whole man if evaluated according to the American Medical Association's Guides to the Evaluation of Permanent Impairment as adopted and supplemented by the Division pursuant to NRS 616C.110.

The injured employee had a prior non-industrial surgical intervention of the cervical spine which resulted in 12% WPI per the May 16, 2023, PPD evaluation performed by Dr. Overland.

Therefore, NRS 616B.557 (3) has been satisfied.

C. NRS 616B.557 (4) states that to qualify under this section for reimbursement from the Subsequent Injury Account for Self-Insured Employers, the self-insured employer must establish

by written records that the self-insured employer had knowledge of the “permanent physical impairment” at the time the employee was hired or that the employee was retained in employment after the self-insured employer acquired such knowledge.

The employer provided documents to demonstrate employer knowledge. The Administrator finds the following to be most persuasive:

- On October 29, 2016, the injured employee completed a Medical Examination Report Form for Commercial Driver Medical Certification. In response to the question “Have you ever had surgery? If yes, please list and explain below”, the employee indicated that a neck fusion procedure was performed twice, specifying the levels C3-C2 and C4-C5.

The division would agree that the employer, Yellow Checker Star Transportation had knowledge of the injured employee’s “permanent physical impairment” prior to his subsequent injury on June 23, 2018.

Therefore, NRS 616B.557(4) has been satisfied.

D. NRS 616B.557(5) states a self-insured employer shall notify the Board of any possible claim against the Subsequent Injury Account for Self-Insured Employers as soon as practicable, but not later than 100 weeks after the injury or death.

Subsection five does not need to be satisfied in order for this claim to be considered for reimbursement since the date of injury is after October 1, 2007, which resulted in a change in the requirements of the statute.

WITNESSES:

List of witnesses who may be called to testify on behalf of the DIR and a brief summary of the proposed testimony of each.

Blanca Villarreal-Rodriguez, Compliance/Audit Investigator III, Workers’ Compensation Section who may testify as to the basis of the Administrator’s recommendation.

Alisa Reed, Compliance/Audit Investigator III, Workers’ Compensation Section who may testify as to the basis of the Administrator’s recommendation.

The Administrator reserves the right to call rebuttal and impeachment witnesses.

NOTIFICATION TO APPLICANT:

Applicants are advised that they should not take for granted a recommendation of the Administrator to the Board, whether positive or adverse to the self-insured employer. The Administrator's role is to make recommendations, only. The Board is the body which decides the application on the merits. Its authority is plenary. Consequently, the applicant should be fully advised that the Board is free to accept or reject in whole or in part, the recommendation of the Administrator. In addition, the Board may agree with the Administrator's recommendation to accept or reject the claim, but make its decision based upon grounds totally different than the basis for the Administrator's recommendation, provided the decision is supported by substantial evidence in the record before the Board and the Board is correct in its disposition as a matter of law. Applicants are advised, then, to appear and represent their position to the Board. Applicants are also further advised to review the pertinent statutes and regulations found at NAC 616B.770 *et. seq.*, and NRS 616B.545 *et. seq.*, and any other statutes, regulations and case law that might apply, to make their own assessment of what might be required of them.

SUBROGATION RECOVERY NOTICE:

Please note that pursuant to NRS 616C.215, if an insurer receives reimbursement from the Subsequent Injury Account, the Nevada Division of Industrial Relations (DIR) has a statutory lien upon the total amount paid by the employer or upon the total proceeds of any recovery from a third party. Additionally, NRS 616C.215(8) makes the injured worker, claimant's counsel, and third-party insurer jointly and severally liable for any amount to which the Subsequent Injury Account is entitled if the party has knowledge of the lien and does not notify the Administrator, DIR, for the Subsequent Injury Account within 15 days after the date of recovery by way of actual receipt of the proceeds of the judgment or settlement.

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CERTIFICATE OF SERVICE

Marisa L. Mayfield
Hooks Meng & Clement, PLLC
2300 W. Sahara Ave. Suite 1100
Las Vegas, Nevada 89102

I certify that I am an employee of the Division of Industrial Relations, Workers' Compensation Section, and on July 16, 2025 I served the attached Administrator's Recommendation Memorandum on the person(s) listed above:

<input checked="" type="checkbox"/>	By placing an original or true copy thereof in a sealed envelope, postage prepaid, placed for collection and mailing in the United States Mail, at Las Vegas, Nevada
<input type="checkbox"/>	By personal delivery
<input type="checkbox"/>	By Federal Express or other overnight delivery
<input type="checkbox"/>	By Certified Mail/Return Receipt Requested

Dated this 16th day of July, 2025



Division of Industrial Relations
Workers' Compensation Section