



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

AMENDED 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: 21D34J953196
Date of Injury: 11/25/2021
Insurer: Las Vegas Metropolitan Police Department
Employer: Las Vegas Metropolitan Police Department
Third-Party Administrator: CCMSI
Submitted By: Kim D. Price, Esq.

DATE: August 13, 2025

ADMINISTRATOR'S RECOMMENDATION:

It is the Administrator's recommendation to **accept** this **amended initial** request pursuant to NRS 616B.557 for the **lumbar spine only**.

AMOUNT OF REIMBURSEMENT:

The total amount requested for reimbursement is \$188,106.74. The amount of verified costs is \$182,058.37.

The D-9a submitted reflected an inaccurate "Net Amount Payable" of \$45,854.15. The correct amount should have been \$46,317.40. Additionally, the injured employee's permanent partial disability award was underpaid.

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BACKGROUND:

This request was received from Kim D. Price, Esq. with Hooks Meng & Clement on July 26, 2024.

PRIOR HISTORY:

The employee was hired by the Las Vegas Metropolitan Police Department on August 2, 2004. On July 24, 2012, while in the course and scope of his employment, during training the employee suffered an injury to his lower back. On July 27, 2012, he received medical treatment at University Medical Center, where he was diagnosed with back strain.

On October 4, 2012, Dr. Flangas evaluated the injured employee. He reviewed the injured employee's MRI scan of the lumbar spine and interpreted the findings as indicating degenerative disc changes at L4-5 and L5-S1 levels. Additionally, there were signs of modic inflammatory changes at L5-S1 and retrolisthesis at L5 on S1. Bilateral facet arthropathy was observed at L4-5 and L5-S1, with hyperintense signals within the facet joints at L5-S1 and to a lesser extent at L4-5. The MRI also showed a central disc protrusion at L4-5 and mild lateral recess stenosis at L5-S1.

Dr. Flangas recommended physical therapy and injection therapy for treatment. The injured employee expressed interest in surgical intervention and Dr. Flangas advised that a potential procedure could involve an L4-5 and L5-S1 lumbar interbody fusion with pedicle screw stabilization.

On March 25, 2013, Dr. Flangas performed a bilateral L4-5 and L5-S1 microdiscectomy and decompression along with posterior interbody fusion at L4-5 and L5-S1 levels. Additionally, posterior lateral and screw stabilization were performed at these levels, utilizing bone morphogenetic protein bone grafts and microscopic dissection.

On September 17, 2013, Dr. Flangas evaluated the injured employee and determined that the injured employee was released to full duty work. If the injured employee demonstrated satisfactory progress with full duty responsibilities, it was anticipated that Dr. Flangas would release him from further care, indicating maximum medical improvement and stable and ratable. No additional medical documentation was submitted for consideration.

On November 7, 2013, Dr. Greenwald conducted a permanent partial disability (PPD) evaluation of the lumbar spine. The evaluation determined a twenty-two (22) percent whole person impairment for the lumbar spine. The injured employee elected the award in a lump sum and received the PPD award payment on November 22, 2013. The claim was subsequently closed.

PRESENT CLAIM:

On November 25, 2021, during the course and scope of his employment, the injured employee

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was sustained an injury to his lower back. On November 26, 2021, he received treatment at University Medical Center, where he was diagnosed with lumbar back strain and sciatica. X-rays performed revealed bilateral transpedicular screws and vertically oriented rods are present from L4-S1.

On February 7, 2022, Dr. Schifini administered a transforaminal epidural steroid injection at the L4-5 level, followed by a similar procedure at the left L3-4 level on March 1, 2022.

On June 6, 2022, Dr. Flangas performed a surgical removal of instrumentation at L4-S1, L3 and L4 laminectomies, bilateral L3-4 Smith-Petersen osteotomies, resection of left L3-4 cyst, L3-4 posterior lumbar interbody fusion, L3-4 posterolateral fusion, L3-4 pedicle screw stabilization.

The injured employee received conservative treatment from Dr. Flangas from January 13, 2022, through December 20, 2022. This treatment included lumbar spine surgery, diagnostic evaluations, and physical therapy. On December 20, 2022, Dr. Flangas determined that the employee had achieved maximum medical improvement. He would refer him for a Functional Capacity Evaluation to determine permanent work restrictions and would keep him on light duty work restrictions.

On January 18, 2023, a Functional Capacity Evaluation was performed by Berne Leavitt, PT and Miguel Nunez, PTA with Kelly Hawkins Physical Therapy. Based on the provided job description, Mr. Leavitt and Mr. Nunez observed that the injured employee did not appear to be able to safely perform all of his pre-injury responsibilities as a Police Officer II for Las Vegas Metropolitan Police Department without modifications. Specifically, there are concerns regarding his ability to meet the strength requirements for subduing individuals, dragging, carrying, and lifting persons and objects. Additionally, limitations with bending may impact his ability to perform certain duties.

The injured employee voluntarily retired on August 31, 2023. No additional medical documentation was submitted for consideration.

On February 7, 2023, Dr. Hogan conducted a permanent partial disability (PPD) evaluation of the lumbar spine. The evaluation determined a twenty-seven (27) percent whole person impairment for his lumbar spine. Dr. Hogan apportioned the prior impairment rating of twenty-two (22) percent against the current impairment rating, which resulted in a five (5) percent whole person impairment. The injured employee elected the award in a lump sum on February 14, 2023. The claim was subsequently closed.

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

- Office visits at University Medical Center on November 26, 2021, December 3, 2021 and December 17, 2021;

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- Prescriptions on December 6, 2021, June 10, 2022, July 21, 2022, September 1, 2022, September 7, 2022 and October 12, 2022;
- Epidural steroid injections on February 15, 2022 and March 1, 2022;
- Surgery on June 6, 2022;
- Anesthesiology on June 6, 2022;
- Office visits with Dr. Schifini on February 7, 2022, February 15, 2022, February 22, 2022 and March 1, 2022;
- Physical therapy with Dignity Select Nevada, LLC on November 3, 2022, November 7, 2022, November 9, 2022, November 16, 2022, November 21, 2022, November 23, 2022, November 25, 2022, November 30, 2022, December 5, 2022 and December 20, 2022;
- Diagnostic testing on November 26, 2021, December 22, 2021, June 1, 2022, June 6, 2022, June 8, 2022, November 15, 2022 and December 20, 2022;
- Office visits with Dr. Flangas with Las Vegas Neurosurgery & Spine Care, LLC on January 13, 2022, February 24, 2022, March 29, 2022, April 26, 2022, May 31, 2022, September 8, 2022, November 15, 2022 and November 16, 2022;
- Functional Capacity Evaluation performed by Berne Leavitt, PT and Miguel Nunez, PTA on January 18, 2023;
- Total temporary disability payments from June 30, 2022, July 13, 2022, August 16, 2022, September 8, 2022, September 23, 2022, October 5, 2022, October 19, 2022, November 18, 2022, and December 1, 2022;
- Vocational Rehabilitation payments on June 26, 2023, July 26, 2023, September 20, 2023, September 29, 2023, October 3, 2023, November 30, 2023 and
- PPD award lump sum payment on February 14, 2023.

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 lumbar spine injury. The injured employee underwent surgical procedures including removal of instrumentation at L4-S1, L3 and L4 laminectomies, bilateral L3-4 Smith-Petersen osteotomies, resection of a left L3-4 cyst, L3-4 posterior lumbar interbody fusion, L3-4 posterolateral fusion, and pedicle screw stabilization at L3-4. The documents presented support

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additional compensation was a result of the combined effects of the injured employees pre-existing impairment and the subsequent injury.

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.

On November 7, 2013, Dr. Perry performed a permanent partial disability (PPD) evaluation of the lumbar spine. The injured employee was found to have a twenty-two (22) percent whole person impairment for his lumbar spine.

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

- On March 1, 2013, the Medical Director of the Las Vegas Metropolitan Police Department submitted a letter to Dr. Flangas. The letter indicated that the injured employee had been evaluated by Dr. Peoples and corresponding report was enclosed. The recommendations included: 1. Reasonable to consider a stabilization procedure at the L5-S1 level and secondarily at the L4-5 level; 2. Discontinue smoking before any fusion operation. Dr. Flangas was asked to review the findings and recommendations. On March 5, 2013, Dr. Flangas confirmed his agreement with the findings and recommendations by checking the appropriate box.

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The division would agree that the employer, Las Vegas Metropolitan Police Department had knowledge of the injured employee's "permanent physical impairment" prior to his subsequent injury on November 25, 2021.

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.

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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

Kim D. Price, Esq.
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 August 13, 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 13th day of August, 2025



Division of Industrial Relations
Workers' Compensation Section