

**5223.0390 MUSCULOSKELETAL SCHEDULE; LUMBAR SPINE.**

Subpart 1. **General.** For permanent partial impairment to the lumbar spine, disability of the whole body is as provided in subparts 2 to 5. The impairing condition in the lumbar spine resulting from an injury may be rated only under one category of subpart 2, 3, or 4. Categories from more than one of subpart 2, 3, or 4 cannot be used in rating the impairing condition resulting from a single injury. Categories in subparts 2 to 4 may not be combined or added together in rating the extent of impairment due to a single injury except as specifically provided. Categories in other subparts may be combined with the rating under subpart 3 or 4 as specifically provided in this part.

If any injury has resulted in mutually exclusive impairing conditions in other areas of the spine, such as cervical spine, under part 5223.0370, or thoracic spine, under part 5223.0380, the mutually exclusive impairing conditions must be rated separately and then all impairments combined as described in part 5223.0300, subpart 3, item E.

A. Permanent partial impairment due to injury of the spinal cord is as provided in part 5223.0360, subpart 6, and may be combined with ratings under subpart 2.

B. Permanent partial impairment due to injury of the nerve roots is as provided in parts 5223.0420 and 5223.0430 and may be combined with ratings under this part if the nerve root injury results in complete loss as defined in part 5223.0420, subpart 1, item A, or 5223.0430, subpart 1, item A. If the loss is less than complete, the ratings under this part are inclusive of any injury to the nerve root.

C. Permanent partial impairment due to bladder dysfunction is as provided in part 5223.0600, subpart 3, and may be combined with ratings under this part.

D. Permanent partial impairment due to sexual dysfunction is as provided in 5223.0600, subparts 6 and 9, and may be combined with ratings under this part.

E. Permanent partial impairment due to anal dysfunction is as provided in part 5223.0590, subpart 4, and may be combined with ratings under this part.

**Subp. 2. Fractures.**

A. Compression fracture of vertebral body, with no involvement of posterior elements, one or more vertebral bodies is rated by the greatest loss of vertebral height among the involved segments:

(1) decrease of no more than ten percent of vertebral height in any vertebral segment, zero percent;

(2) decrease of greater than ten percent but less than or equal to 25 percent in vertebral height in at least one vertebral segment, four percent;

(3) decrease in vertebral height is greater than 25 percent but less than or equal to 50 percent in at least one vertebral segment, 10.5 percent;

(4) decrease of greater than 50 percent in vertebral height in at least one vertebral segment, 15 percent.

B. Vertebral fractures involving posterior elements and X-ray evidence of dislocation regardless of vertebral compression of any degree:

(1) normal reduction and no surgery required, 10.5 percent;

(2) surgery performed and normal reduction achieved, 14 percent;

(3) no surgery performed and reduction is not normal, 15 percent;

(4) surgery performed with poor reduction, 19 percent.

C. Any other documented acute fracture other than as specified in item A or B, four percent.

D. For fractures of multiple vertebral levels, add three percent, regardless of the number of levels involved, to item A, B, or C as otherwise applicable.

**Subp. 3. Lumbar pain syndrome.**

A. Symptoms of pain or stiffness in the region of the lumbar spine not substantiated by persistent objective clinical findings, regardless of radiographic findings, zero percent.

B. Symptoms of pain or stiffness in the region of the lumbar spine, substantiated by persistent objective clinical findings, that is, involuntary muscle tightness in the paralumbar muscles or decreased range of motion in the lumbar spine, but no radiographic abnormality, 3.5 percent.

C. Symptoms of pain or stiffness in the region of the lumbar spine, substantiated by persistent objective clinical findings, that is, involuntary muscle tightness in the paralumbar muscles or decreased range of motion in the lumbar spine, and with any radiographic, myelographic, CT scan, or MRI scan abnormality not specifically addressed elsewhere in this part:

(1) single vertebral level, seven percent;

(2) multiple vertebral levels, ten percent.

D. Symptoms of pain or stiffness in the region of the lumbar spine, substantiated by persistent objective clinical findings, that is, involuntary muscle tightness in the paralumbar muscles or decreased range of motion in the lumbar spine, and with radiographic evidence of spondylolisthesis, as defined in part 5223.0310, subpart 48:

(1) grade 1, as defined in part 5223.0310, subpart 49, seven percent;

(2) grade 2, as defined in part 5223.0310, subpart 50, 14 percent;

(3) grade 3 or 4, as defined in part 5223.0310, subparts 51 and 52, 24.5 percent.

**Subp. 4. Radicular syndromes.**

A. Radicular pain or radicular paresthesia, as defined in part 5223.0310, subparts 43 and 44, with or without lumbar pain syndrome, not substantiated by persistent objective clinical findings, regardless of radiographic findings, zero percent.

B. Radicular pain or radicular paresthesia, with or without lumbar pain syndrome, with persistent objective clinical findings confined to the region of the lumbar spine, that is, involuntary muscle tightness in the paralumbar muscles or decreased range of motion in the lumbar spine, but no radiographic findings, 3.5 percent.

C. Radicular pain or radicular paresthesia, with or without lumbar pain syndrome, with persistent objective clinical findings confined to the region of the lumbar spine, that is, involuntary muscle tightness in the paralumbar muscles or decreased range of motion in the lumbar spine, and with any radiographic, myelographic, CT scan, or MRI scan abnormality not specifically addressed elsewhere in this part:

(1) single vertebral level, seven percent;

(2) multiple vertebral levels, ten percent;

(3) if a surgery at one level, other than fusion, performed as part of the treatment, ten percent;

(4) if a surgery at more than one level other than a fusion is performed as part of the treatment, 13 percent.

D. Radicular pain or radicular paresthesia, with or without lumbar pain syndrome, and with objective radicular findings, that is, hyporeflexia or EMG abnormality or nerve root specific muscle weakness in the lower extremity, on examination and myelographic, CT scan, or MRI scan evidence of intervertebral disc bulging, protrusion, or herniation that impinges on a lumbar nerve root, and the medical imaging findings correlate anatomically with the findings on neurologic examination, nine percent with the addition of as many of subitems (1) to (4) as apply, but each may be used only once:

(1) if chronic radicular pain or radicular paresthesia persist despite treatment, add three percent;

(2) if a surgery other than a fusion performed as part of the treatment, add two percent, if surgery included a fusion, the rating is as provided in subpart 5;

(3) for additional surgery, other than a fusion, regardless of the number of additional surgeries, add two percent, if the additional surgery included a fusion, the rating is as provided in subpart 5;

(4) additional concurrent lesion on contralateral side at the same level or on either side at other level, which meets all of the criteria of this item or item E, add nine percent.

E. Radicular pain or radicular paresthesia, with or without lumbar pain syndrome, and with objective radicular findings, that is, reflex changes or EMG abnormality or nerve root specific muscle weakness in the lower extremity, on examination and myelographic, CT scan, or MRI scan evidence of spinal stenosis, as defined in part 5223.0310, subpart 47, that impinges on a lumbar nerve root, and the medical imaging findings correlate with the findings on neurological examination, ten percent with the addition of as many of subitems (1) to (4) as apply, but each may be used only once:

(1) if chronic radicular pain or radicular paresthesia persist despite treatment, add three percent;

(2) if a surgery other than a fusion performed as part of the treatment, add five percent, if surgery included a fusion, the rating is as provided in subpart 5;

(3) for additional surgery, other than a fusion, regardless of the number of additional surgeries, add three percent, if additional surgery included a fusion, the rating is as provided in subpart 5;

(4) additional concurrent lesion on contralateral side at the same level or on either side at other level, which meets all of the criteria of this item or item D, add nine percent.

**Subp. 5. Fusion.**

A. Fusion, as defined in part 5223.0310, subpart 29, at one level performed as part or all of the surgical treatment of a lumbar pain or radicular pain syndrome, add five percent to the otherwise appropriate category in subpart 3 or 4.

B. Fusion at multiple levels performed as part or all of the surgical treatment of a lumbar pain or radicular pain syndrome, add ten percent to the otherwise appropriate category in subpart 3 or 4.

**Statutory Authority:** *MS s 176.105*

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