

BRIAN BACKERT
31 CHRISTEN COURT
LANCASTER, NY 14086

Members of the NYS Senate:

My name is Brian Backert. I injured my back at work while working for Perry's Ice Cream.

After my injury, I treated with a chiropractor, injections, and pain management. This did not improve my pain. I have daily pain in my back that goes into my legs. It prevents me from being able to work. I cannot even do chores around my house.

I saw a surgeon who recommended surgery due to my pain and an MRI that showed I have a severe disc herniation. My surgeon requested approval for surgery from the insurance company in August of 2023. The insurance company denied my surgery after I saw the insurance company's doctor. The doctor said that surgery would not help me. I was told that he did not even review my MRI.

My attorney requested a hearing to address the surgery denial in September. At the hearing the Judge told me that she could not authorize my surgery until my doctor testified.

My doctor testified in October. He said that I needed a lumbar fusion because of my pain, because other treatments have not helped, and because I have severe stenosis and radiculopathy. He said the surgery would take the pressure off my nerves.

At a hearing in November the Judge denied my surgery. She said that she could not approve my surgery because of the Board's Guidelines. She said that I met all factors except one, that I do not have instability, so she had to deny my surgery. She said I could try again if my doctor could address the instability issue.

My attorney recommended that I go back to my doctor and ask him to try to request the surgery again with more information. I saw my doctor in December. He requested surgery again with the information that the Judge wanted. His report explained how bad my pain is. He said I have trouble sitting, walking, sleeping, and I can't get my shoes on. He addressed that the Judge said I do not have instability, but that is not the only reason for a surgery like this. He said that I need this surgery because of my back pain, radiculopathy and the MRI.

The insurance company denied the request again, so my attorney requested a hearing. Instead of giving me a hearing, the Board sent me a piece of paper that said my surgery was denied due to "insufficient medical documentation to support the request." It was just one sentence. There was not even a name of the person who made the decision. My attorney objected and again asked for a hearing. At the end of February, I was given a hearing.

At the hearing, the Judge again said that one factor was missing under the Guidelines for her to approve my surgery. She also said that she wanted to see what the insurance company doctor would say, so I had to come back.

I saw the insurance company's doctor again. This time, he considered my MRI and said that based on my MRI I am "logically a surgical candidate." He agreed with the surgery that my doctor recommended.

We came back for another hearing at the end of March. Even though the insurance company's doctor said that I needed the surgery, the insurance company's attorney asked the Judge to deny my surgery again because of the Board's Guidelines.

Thankfully, the Judge finally approved my surgery. I am now scheduled for surgery in June. That will be 10 months from when my doctor first asked for the surgery to be approved. I do not understand why this took so long, why the Board kept denying my surgery, and why my attorney had to fight for this even after the insurance company's doctor said I needed it. I do not think I should have had to live with this pain for so long because of a "guideline."

Thank you for considering my story.

Sincerely,

A handwritten signature in cursive script that reads "Brian Backert". The signature is written in black ink and is positioned above the printed name.

Brian Backert