

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 957

Introduced by Lowe, 37.

Read first time January 10, 2018

Committee: Business and Labor

- 1 A BILL FOR AN ACT relating to Nebraska Workers' Compensation Act; to
- 2 amend section 48-125, Revised Statutes Cumulative Supplement, 2016;
- 3 to provide for certain payments by direct deposit, prepaid card, or
- 4 similar electronic payment system; to define terms; to harmonize
- 5 provisions; and to repeal the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-125, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 48-125 (1) ~~(1)(a)~~ Except as hereinafter provided, all amounts of
4 compensation payable under the Nebraska Workers' Compensation Act shall
5 be payable periodically in accordance with the methods of payment of
6 wages of the employee at the time of the injury or death ~~or by a method~~
7 of payment as provided in subsection (2) of this section. Such payments
8 shall be sent directly to the person entitled to compensation or his or
9 her designated representative except as otherwise provided in section
10 48-149.

11 (2)(a) Upon agreement of the employer, workers' compensation
12 insurer, or risk management pool and the employee or other person
13 entitled to compensation, payment may be made by direct deposit, prepaid
14 card, or similar electronic payment system.

15 (b) If an employer, workers' compensation insurer, or risk
16 management pool offers a choice of method of payment, the employer,
17 insurer, or pool may, upon receipt of a workers' compensation claim,
18 request the employee or other person entitled to compensation to choose
19 between direct deposit, prepaid card, or a similar electronic payment
20 system as the method of payment, unless the employee or other person
21 entitled to compensation requests payment by check.

22 (c) If the employee or other person entitled to compensation fails
23 to choose a method of payment, the employer, workers' compensation
24 insurer, or risk management pool may elect to make payment using direct
25 deposit, prepaid card, or a similar electronic payment system. The
26 employee or other person entitled to compensation may elect at a later
27 time to change this default method of payment, but the employer, workers'
28 compensation insurer, or risk management pool is not required to rescind
29 a payment transaction already made.

30 (d) Any fees or other charges relating to payment by direct deposit,
31 prepaid card, or a similar electronic payment system shall be disclosed

1 to the employee or other person entitled to compensation.

2 (e) An employer, workers' compensation insurer, or risk management
3 pool or its agent shall not engage in unfair, deceptive, or abusive
4 practices in relation to the method of payment of benefits. No employer,
5 workers' compensation insurer, or risk management pool or agent shall
6 discharge, penalize, or in any other manner discriminate against any
7 employee or other person entitled to compensation because such person has
8 not consented to receive payments through direct deposit, prepaid card,
9 or a similar electronic system.

10 (f) An employer, workers' compensation insurer, or risk management
11 pool that elects to make payment using a prepaid card shall comply with
12 the requirements of 12 C.F.R. part 1005, as such part existed on April 1,
13 2018.

14 (3) ~~(b)~~ Fifty percent shall be added for waiting time for all
15 delinquent payments after thirty days' notice has been given of
16 disability or after thirty days from the entry of a final order, award,
17 or judgment of the Nebraska Workers' Compensation Court, except that for
18 any award or judgment against the state in excess of one hundred thousand
19 dollars which must be reviewed by the Legislature as provided in section
20 48-1,102, fifty percent shall be added for waiting time for delinquent
21 payments thirty days after the effective date of the legislative bill
22 appropriating any funds necessary to pay the portion of the award or
23 judgment in excess of one hundred thousand dollars.

24 (4)(a) ~~(2)(a)~~ Whenever the employer refuses payment of compensation
25 or medical payments subject to section 48-120, or when the employer
26 neglects to pay compensation for thirty days after injury or neglects to
27 pay medical payments subject to such section after thirty days' notice
28 has been given of the obligation for medical payments, and proceedings
29 are held before the compensation court, a reasonable attorney's fee shall
30 be allowed the employee by the compensation court in all cases when the
31 employee receives an award. Attorney's fees allowed shall not be deducted

1 from the amounts ordered to be paid for medical services nor shall
2 attorney's fees be charged to the medical providers.

3 (b) If the employer files an appeal from an award of a judge of the
4 compensation court and fails to obtain any reduction in the amount of
5 such award, the Court of Appeals or Supreme Court shall allow the
6 employee a reasonable attorney's fee to be taxed as costs against the
7 employer for such appeal.

8 (c) If the employee files an appeal from an order of a judge of the
9 compensation court denying an award and obtains an award or if the
10 employee files an appeal from an award of a judge of the compensation
11 court when the amount of compensation due is disputed and obtains an
12 increase in the amount of such award, the Court of Appeals or Supreme
13 Court may allow the employee a reasonable attorney's fee to be taxed as
14 costs against the employer for such appeal.

15 (d) A reasonable attorney's fee allowed pursuant to this subsection
16 shall not affect or diminish the amount of the award.

17 (5) ~~(3)~~ When an attorney's fee is allowed pursuant to this section,
18 there shall further be assessed against the employer an amount of
19 interest on the final award obtained, computed from the date compensation
20 was payable, as provided in section 48-119, until the date payment is
21 made by the employer. For any injury occurring prior to August 30, 2015,
22 the interest rate shall be equal to the rate of interest allowed per
23 annum under section 45-104.01, as such rate may from time to time be
24 adjusted by the Legislature. For any injury occurring on or after August
25 30, 2015, the interest rate shall be equal to six percentage points above
26 the bond investment yield, as published by the Secretary of the Treasury
27 of the United States, of the average accepted auction price for the first
28 auction of each annual quarter of the twenty-six-week United States
29 Treasury bills in effect on the date of entry of the judgment. Interest
30 shall apply only to those weekly compensation benefits awarded which have
31 accrued as of the date payment is made by the employer. If the employer

1 pays or tenders payment of compensation, the amount of compensation due
2 is disputed, and the award obtained is greater than the amount paid or
3 tendered by the employer, the assessment of interest shall be determined
4 solely upon the difference between the amount awarded and the amount
5 tendered or paid.

6 (6) For purposes of this section:

7 (a) Direct deposit means the transfer of payments into an account of
8 a financial institution of the choosing of the employee or other person
9 entitled to compensation; and

10 (b) Prepaid card means a card that provides access to an account
11 with a financial institution established directly or indirectly by the
12 employer, workers' compensation insurer, or risk management pool to which
13 transfers of payments are made.

14 Sec. 2. Original section 48-125, Revised Statutes Cumulative
15 Supplement, 2016, is repealed.