

LEGISLATIVE BILL 127

Approved by the Governor February 26, 1975

Introduced by Burrows, 30

AN ACT to amend section 48-120, Reissue Revised Statutes of Nebraska, 1943, relating to workmen's compensation; to provide for the furnishing of medical and hospital services, appliances, supplies, prosthetic devices, and medicines as prescribed; to permit the employee to select his own physician; to define a term; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 48-120, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-120. The employer shall be liable for all reasonable medical and hospital services, appliances, supplies, prosthetic devices, and medicines as and when needed, and in addition to devices necessary for treatment, the first prosthetic devices which are required by the nature of the injury and which will relieve pain or promote and hasten the employee's restoration to health and employment, subject to the approval of and regulation by the compensation court, not to exceed the regular charge made for such service in similar cases, ~~but the employer shall not be liable for such medical and hospital services and medicines if the employee refuses to allow them to be furnished by the employer.~~ The employee shall have the right to make the initial selection of his physician from among all licensed physicians in the state and shall have the right to make an alternative choice of physician if he is not satisfied with the physician first selected. If the employee shall select a physician located in a community not the home or place of work of the employee, and a physician is available in the local community or in a closer community, no travel expenses shall be required to be paid by the employer or his insurer. In cases of injury requiring dismemberment, or injuries involving major surgical operation, the employee may designate to his employer the physician or surgeon to perform the operation. If the injured employee unreasonably refuses or neglects to avail himself of medical or surgical treatment, ~~furnished by the employer,~~ except as herein and otherwise provided, the employer shall not be liable for an aggravation of such injury due to such refusal and

neglect and the court or judge thereof may suspend, reduce, or limit the compensation otherwise payable under the provisions of Chapter 48, article 1.

The employer shall maintain a list of doctors who are reasonably accessible to the employees. The employer shall post this list in a place or places easily accessible to his employees. The employee shall have the right to accept the services of a doctor selected by his employer or to select a doctor from the list of doctors. The employee shall have the right to make an alternative choice of doctor from such list if he is not satisfied with the doctor first selected. If, due to the nature of the injury or its occurrence away from the employer's place of business, the employer or the employee is unable to make such selection, the selection requirements of this section shall not apply as long as the inability to make a selection persists. The physician selected may arrange for any consultation, referral, or extraordinary or other specialized medical services as the nature of the injury shall require. The employer shall not be responsible for medical services furnished or ordered by any physician or other person selected by the employee in disregard of the provisions of this section. The court may order necessary changes in the list of doctors if the court finds that such list fails to contain a sufficient number of qualified doctors who are conveniently available to or in the community in which the medical service is required. If the employer shall fail to maintain a list of doctors, or permit an employee to select a doctor from such list, the injured employee may select a doctor to render service at the expense of the employer.

No claim for such medical treatment shall be valid and enforceable unless, within fourteen days following the first treatment, the physician giving such treatment furnishes the employer and the court a report of such injury and treatment on a form prescribed by the court. The court may excuse the failure to furnish such report within fourteen days when it finds it to be in the interest of justice to do so.

All physicians attending injured employees shall comply with all the rules and regulations adopted by the court and shall make such reports as may be required by it at any time and at such times as required by it upon the condition or treatment of any injured employee or upon any other matters concerning cases in which they are employed. Generally, all medical and hospital information relevant to the particular injury shall, on demand, be made available to the employer, employee, carrier, and the court. The party requesting such

medical and hospital information shall pay the cost thereof. No such relevant information developed in connection with treatment or examination for which compensation is sought shall be considered a privileged communication for purposes of a workmen's compensation claim. When a physician willfully fails to make any report required of him under this section, the court may order the forfeiture of his right to all or part of payment due for services rendered in connection with the particular case.

Whenever the court deems it necessary, in order to assist it in resolving any issue of medical fact or opinion, it shall cause the employee to be examined by a physician or physicians selected by the court and obtain from such physician or physicians a report upon the condition or matter which is the subject of inquiry. The court may charge the cost of such examination to the carrier. The cost of such examination shall include the payment to the employee of all necessary and reasonable expenses incident to such examination, such as transportation and loss of wages.

The court shall have the authority to determine the necessity, character, and sufficiency of any medical services furnished or to be furnished and shall have authority to order a change of doctor, physician, hospital, or rehabilitation facility when it deems such change is desirable or necessary. For the purpose of this section, physician shall mean any person licensed to practice medicine and surgery, osteopathic medicine, chiropractic, podiatry, or dentistry.

Sec. 2. That original section 48-120, Reissue Revised Statutes of Nebraska, 1943, is repealed.