

LEGISLATIVE BILL 529

Approved by the Governor February 14, 1978

Introduced by Business and Labor Committee, R. Maresh, 32, Chmn.; F. Lewis, 45; Fitzgerald, 14; Rasmussen, 41; Brennan, 9

AN ACT to amend section 48-120, Revised Statutes Supplement, 1976, relating to workmen's compensation; to provide additional liability for employers as specified; and to repeal the original section.

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

Section 1. As used in section 2 of this act, unless the context otherwise requires:

(1) Plastic surgery shall mean that branch of surgery concerned with the repair or restoration of lost, injured, or deformed body parts chiefly by transfer of tissue; and

(2) Reconstructive surgery shall mean surgery which restores or tends to restore an injured or deformed structure.

Sec. 2. That section 48-120, Revised Statutes Supplement, 1976, be amended to read as follows:

48-120. The employer shall be liable for all reasonable medical, surgical, and hospital services, including plastic or reconstructive but not cosmetic surgery when the injury has caused disfigurement, appliances, supplies, prosthetic devices, and medicines as and when needed, 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, and shall include damage to or destruction of artificial members, dental appliances, teeth, hearing aids, and eyeglasses, but, in the case of dental appliances, hearing aids, or eyeglasses, only if such damage or destruction resulted from an accident which also caused personal injury entitling the employee to compensation therefor for disability or treatment, subject to the approval of and regulation by the compensation court, not to exceed the regular charge made for such service in similar cases. 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, 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.

If, due to the nature of the injury or its occurrence away from the employer's place of business, 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.

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. 3. That original section 48-120, Revised Statutes Supplement, 1976, is repealed.