

LEGISLATIVE BILL 266

Approved by the Governor May 4, 1983

Introduced by Goodrich, 20

AN ACT to amend section 48-162.01, Beissue Revised Statutes of Nebraska, 1943, relating to the Nebraska Workmen's Compensation Court; to change provisions relating to funding for vocational rehabilitation; and to repeal the original section; and to declare an emergency. Be it enacted by the people of the State of Nebraska,

Section 1. That section 48-162.01, Beissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-162.01. (1) One of the primary purposes of this act shall be restoration of the injured employee to gainful employment. To this end the Nebraska Workmen's Compensation Court may employ one or more specialists in physical, medical, and vocational rehabilitation to be appointed by the presiding judge. Salaries, other benefits, and expenses incurred for purposes of vocational rehabilitation may be paid from the Vocational Rehabilitation Fund created under section 48-162.02.

(2) Such specialists shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public, which have been approved by the court. The court shall approve as qualified such facilities, institutions, and physicians as are capable of rendering competent rehabilitation service to seriously injured employees. No facility or institution shall be considered as qualified unless it is specifically equipped to provide rehabilitation services for persons suffering from either some specialized type of disability or some general type of disability within the field of occupational injury and is staffed with trained and qualified personnel, and, with respect to physical rehabilitation, unless it is supervised by a physician qualified to render such service. No physician shall be considered qualified unless he or she has had the experience and training specified by the court.

(3) An employee who has suffered an injury covered by sections 48-101 to 48-151 shall be entitled to prompt medical and physical rehabilitation services. When as a result of the injury he an employee is unable to perform work for which he or she has previous training or experience, he or she shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him or her to suitable employment. If such services are not voluntarily offered and accepted, the court or any judge thereof on its or his or her own motion, or upon application of the employee or employer, and after affording the parties an opportunity to be heard by the court or judge thereof, may refer the employee to a qualified physician or facility for evaluation and report of the practicability of, need for, and kind of service, treatment, or training necessary and appropriate to render him or her fit for a remunerative occupation, the costs of such evaluation and report involving physical or medical rehabilitation to be borne by the employer or his or her insurer, except that the costs of such evaluation and report involving vocational rehabilitation shall be paid from the Vocational Rehabilitation Fund. When both physical or medical rehabilitation and vocational rehabilitation are involved, the costs may be apportioned by the court between the employer and the Vocational Rehabilitation Fund. Upon receipt of such report, and after affording the parties an opportunity to be heard, the court or judge thereof may order that the physical or medical services and treatment recommended in the report, or such other physical or medical rehabilitation treatment or service he, she, or they may deem necessary, be provided at the expense of the employer or his or her insurer.

Vocational rehabilitation training, treatment, or service shall be paid from the Vocational Rehabilitation Fund.

(4) When physical or medical rehabilitation requires residence at or near the facility or institution, away from the employee's customary residence, either in or out of the State of Nebraska, the reasonable costs of his or her board, lodging, and travel shall be paid for by the employer or his or her insurer in addition to any other benefits payable under sections 48-101 to 48-151, including weekly compensation benefits for temporary disability. When vocational rehabilitation requires residence at or near the facility or institution and away from the employee's customary residence and whether within or without this state, the reasonable costs of his or her board, lodging, and travel shall be paid from the Vocational Rehabilitation Fund and weekly compensation benefits for

temporary disability shall be paid by the employer or his or her insurer.

(5) The court may cooperate on a reciprocal basis with federal and state agencies for vocational education or vocational, physical, or medical rehabilitation or with any public or private agency.

(6) Whenever the court or judge thereof determines that there is a reasonable probability that with appropriate training, rehabilitation, or education a person who is entitled to compensation for total or partial disability which is or is likely to be permanent may be rehabilitated to the extent that he or she will require less care and attendance or to the extent that he or she can become gainfully employed or increase his or her earning capacity and that it is for the best interests of such person to undertake such training, rehabilitation, or education, if the injured employee without reasonable cause refuses to undertake the rehabilitation, training, or educational program determined by the court or judge thereof to be suitable for him or her or refuses to be evaluated under the provisions of subsection (3) of this section, the court or judge thereof may suspend, reduce, or limit the compensation otherwise payable under sections 48-101 to 48-151.

Sec. 2. That original section 48-162.01, Reissue Revised Statutes of Nebraska, 1943, is repealed.

Sec. 3. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.