

LEGISLATIVE BILL 215

Approved by the Governor March 14, 1979

Introduced by Business and Labor Committee, R. Maresh, 32, Chmn.; Simon, 31; Fitzgerald, 14; Kahle, 37; Landis, 46; Brennan, 9; DeCamp, 40

AN ACT to amend section 48-120, Revised Statutes Supplement, 1978, relating to workmen's compensation; to provide power for the court to order payment or reimbursement as prescribed; to provide who may not be party to actions; 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 48-120, Revised Statutes Supplement, 1978, 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.

The court may order the employer to make payment directly to the supplier of any services provided for in this section or reimbursement to anyone who has made any payment to the supplier for services provided in this section. No such supplier or payor may be made or become a party to any action before the court.

Sec. 2. That original section 48-120, Revised Statutes Supplement, 1979, 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.