

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 872**

Introduced by Lathrop, 12.

Read first time January 11, 2010

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to workers' compensation; to amend section  
2 48-120.04, Revised Statutes Supplement, 2009; to change  
3 applicability of a medical fee schedule as prescribed;  
4 and to repeal the original section.

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

1           Section 1. Section 48-120.04, Revised Statutes  
2 Supplement, 2009, is amended to read:

3           48-120.04 (1) This section applies only to hospitals  
4 identified in subdivision (1)(c) of section 48-120.

5           (2) For inpatient discharges on or after January 1, 2008,  
6 the Diagnostic Related Group inpatient hospital fee schedule shall  
7 be as set forth in this section, except as otherwise provided in  
8 subdivision (1)(d) of section 48-120. Adjustments shall be made  
9 annually as provided in this section, with such adjustments to  
10 become effective each January 1.

11           (3) For purposes of this section:

12           (a) Current Medicare Factor is derived from the  
13 Diagnostic Related Group Prospective Payment System as established  
14 by the Centers for Medicare and Medicaid Services under the United  
15 States Department of Health and Human Services and means the  
16 summation of the following components:

17           (i) Hospital-specific Federal Standardized Amount,  
18 including all wage index adjustments and reclassifications;

19           (ii) Hospital-specific Capital Standard Federal Rate,  
20 including geographic, outlier, and exception adjustment factors;

21           (iii) Hospital-specific Indirect Medical Education Rate,  
22 reflecting a percentage add-on for indirect medical education costs  
23 and related capital; and

24           (iv) Hospital-specific Disproportionate Share Hospital  
25 Rate, reflecting a percentage add-on for disproportionate share of

1 low income patient costs and related capital;

2 (b) Current Medicare Weight means the weight assigned  
3 to each Medicare Diagnostic Related Group as established by the  
4 Centers for Medicare and Medicaid Services under the United States  
5 Department of Health and Human Services;

6 (c) Diagnostic Related Group means the Diagnostic Related  
7 Group assigned to inpatient hospital services using the public  
8 domain classification and methodology system developed for the  
9 Centers for Medicare and Medicaid Services under the United States  
10 Department of Health and Human Services; and

11 (d) Workers' Compensation Factor means the Current  
12 Medicare Factor for each hospital multiplied by one hundred fifty  
13 percent.

14 (4) The Diagnostic Related Group inpatient hospital  
15 fee schedule shall include at least thirty-eight of the most  
16 frequently utilized Medicare Diagnostic Related Groups for workers'  
17 compensation with the goal that the fee schedule covers at least  
18 ninety percent of all workers' compensation inpatient hospital  
19 claims submitted by hospitals identified in subdivision (1)(c) of  
20 section 48-120. Rehabilitation Diagnostic Related Groups shall not  
21 be included in the Diagnostic Related Group inpatient hospital  
22 fee schedule. Claims for inpatient trauma services shall not be  
23 reimbursed under the Diagnostic Related Group inpatient hospital  
24 fee schedule established under this section, but rather until  
25 ~~January 1, 2011. Claims for inpatient trauma services prior to~~

1 ~~January 1, 2011,~~ shall be reimbursed under the fees established by  
2 the compensation court pursuant to subdivision (1)(b) of section  
3 48-120 or as contracted pursuant to subdivision (1)(d) of such  
4 section. For purposes of this subsection, trauma means a major  
5 single-system or multisystem injury requiring immediate medical or  
6 surgical intervention or treatment to prevent death or permanent  
7 disability.

8 (5) The Diagnostic Related Group inpatient hospital fee  
9 schedule shall be established by the following methodology:

10 (a) The Diagnostic Related Group reimbursement amount  
11 required under the Nebraska Workers' Compensation Act shall be  
12 equal to the Current Medicare Weight multiplied by the Workers'  
13 Compensation Factor for each hospital;

14 (b) The Stop-Loss Threshold amount shall be the  
15 Diagnostic Related Group reimbursement amount calculated in  
16 subdivision (5)(a) of this section multiplied by two and one-half;

17 (c) For charges over the Stop-Loss Threshold amount of  
18 the schedule, the hospital shall be reimbursed the Diagnostic  
19 Related Group reimbursement amount calculated in subdivision (5)(a)  
20 of this section plus sixty percent of the charges over the  
21 Stop-Loss Threshold amount; and

22 (d) For charges less than the Stop-Loss Threshold amount  
23 of the schedule, the hospital shall be reimbursed the lower of  
24 the hospital's billed charges or the Diagnostic Related Group  
25 reimbursement amount calculated in subdivision (5)(a) of this

1 section.

2 (6) For charges for all other stays or services that are  
3 not on the Diagnostic Related Group inpatient hospital fee schedule  
4 or are not contracted for under subdivision (1)(d) of section  
5 48-120, the hospital shall be reimbursed under the schedule of  
6 fees established by the compensation court pursuant to subdivision  
7 (1)(b) of section 48-120.

8 (7) Each hospital shall assign and include a Diagnostic  
9 Related Group on each workers' compensation claim submitted.  
10 The workers' compensation insurer, risk management pool, or  
11 self-insured employer may audit the Diagnostic Related Group  
12 assignment of the hospital.

13 (8) The chief executive officer of each hospital shall  
14 sign and file with the administrator of the compensation court by  
15 October 15 of each year, in the form and manner prescribed by the  
16 administrator, a sworn statement disclosing the Current Medicare  
17 Factor of the hospital in effect on October 1 of such year and each  
18 item and amount making up such factor.

19 (9) Each hospital, workers' compensation insurer, risk  
20 management pool, and self-insured employer shall report to the  
21 administrator of the compensation court by October 15 of each year,  
22 in the form and manner prescribed by the administrator, the total  
23 number of claims submitted for each Diagnostic Related Group and  
24 the number of times billed charges exceeded the Stop-Loss Threshold  
25 amount for each Diagnostic Related Group.

1                   (10) The compensation court may add or subtract  
2 Diagnostic Related Groups in striving to achieve the goal of  
3 including those Diagnostic Related Groups that encompass at least  
4 ninety percent of the inpatient hospital workers' compensation  
5 claims submitted by hospitals identified in subdivision (1)(c) of  
6 section 48-120. The administrator of the compensation court shall  
7 annually make necessary adjustments to comply with the Current  
8 Medicare Weights and shall annually adjust the Current Medicare  
9 Factor for each hospital based on the annual statement submitted  
10 pursuant to subsection (8) of this section.

11                   Sec. 2. Original section 48-120.04, Revised Statutes  
12 Supplement, 2009, is repealed.