

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 951

Introduced by Lautenbaugh, 18.

Read first time January 16, 2014

Committee: Business and Labor

A BILL

- 1 FOR AN ACT relating to the Nebraska Workers' Compensation Act; to
- 2 amend section 48-139, Reissue Revised Statutes of
- 3 Nebraska; to change provisions relating to lump-sum
- 4 settlements; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-139, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 48-139 (1)(a) Whenever an injured employee or his or her
4 dependents and the employer agree that the amounts of compensation
5 due as periodic payments for death, permanent disability, or claimed
6 permanent disability under the Nebraska Workers' Compensation Act
7 shall be commuted to one or more lump-sum payments, such settlement
8 shall be submitted to the Nebraska Workers' Compensation Court for
9 approval as provided in subsection (2) of this section if:

10 (i) The employee is not represented by counsel;

11 (ii) The employee, at the time the settlement is
12 executed, is eligible for medicare, is a medicare beneficiary, or has
13 a reasonable expectation of becoming eligible for medicare within
14 thirty months after the date the settlement is executed;

15 (iii) Medical, surgical, or hospital expenses incurred
16 for treatment of the injury have been paid by medicaid and medicaid
17 will not be reimbursed as part of the settlement;

18 (iv) Medical, surgical, or hospital expenses incurred for
19 treatment of the injury will not be fully paid as part of the
20 settlement; or

21 (v) The settlement seeks to commute amounts of
22 compensation due to dependents of the employee.

23 (b) If such lump-sum settlement is not required to be
24 submitted for approval by the compensation court, a release shall be
25 filed with the compensation court as provided in subsection (3) of

1 this section. Nothing in this section shall be construed to increase
2 the compensation court's duties or authority with respect to the
3 approval of lump-sum settlements under the act.

4 (2)(a) An application for an order approving a lump-sum
5 settlement, signed and verified by both parties, shall be filed with
6 the clerk of the compensation court and shall be entitled the same as
7 an action by such employee or dependents against such employer. The
8 application shall contain a concise statement of the terms of the
9 settlement or agreement sought to be approved with a brief statement
10 of the facts concerning the injury, the nature thereof, the wages
11 received by the injured employee prior thereto, the nature of the
12 employment, and such other matters as may be required by the
13 compensation court. The application may provide for payment of future
14 medical, surgical, or hospital expenses incurred by the employee. The
15 compensation court may hold a hearing on the application at a time
16 and place selected by the compensation court, and proof may be
17 adduced and witnesses subpoenaed and examined the same as in an
18 action in equity.

19 (b) If the compensation court finds such lump-sum
20 settlement is made in conformity with the compensation schedule and
21 for the best interests of the employee or his or her dependents under
22 all the circumstances, the compensation court shall make an order
23 approving the same. If such settlement is not approved, the
24 compensation court may dismiss the application at the cost of the
25 employer or continue the hearing, in the discretion of the

1 compensation court.

2 (c) Every such lump-sum settlement approved by order of
3 the compensation court shall be final and conclusive unless procured
4 by fraud. Upon paying the amount approved by the compensation court,
5 the employer (i) shall be discharged from further liability on
6 account of the injury or death, other than liability for the payment
7 of future medical, surgical, or hospital expenses if such liability
8 is approved by the compensation court on the application of the
9 parties, and (ii) shall be entitled to a duly executed release. Upon
10 filing the release, the liability of the employer under any
11 agreement, award, finding, or decree shall be discharged of record.

12 (3) If such lump-sum settlement is not required to be
13 submitted for approval by the compensation court, a release shall be
14 filed with the compensation court in accordance with this subsection
15 that is signed and verified by the employee and the employee's
16 attorney. ~~Such release shall be a full and complete discharge from~~
17 ~~further liability for the employer on account of the injury,~~
18 ~~including future medical, surgical, or hospital expenses, unless such~~
19 ~~expenses are specifically excluded from the release.~~ The release
20 shall be made on a form approved by the compensation court and shall
21 contain a statement signed and verified by the employee that:

22 (a) The employee understands and waives all rights under
23 the Nebraska Workers' Compensation Act, including, but not limited
24 to:

25 (i) The right to receive weekly disability benefits, both

1 temporary and permanent;

2 (ii) The right to receive vocational rehabilitation
3 services;

4 (iii) The right to receive future medical, surgical, and
5 hospital services as provided in section 48-120, unless such services
6 are specifically excluded from the release; and

7 (iv) The right to ask a judge of the compensation court
8 to decide the parties' rights and obligations;

9 (b) The employee is not eligible for medicare, is not a
10 current medicare beneficiary, and does not have a reasonable
11 expectation of becoming eligible for medicare within thirty months
12 after the date the settlement is executed;

13 (c) There are no medical, surgical, or hospital expenses
14 incurred for treatment of the injury which have been paid by medicaid
15 and not reimbursed to medicaid by the employer as part of the
16 settlement; and

17 (d) There are no medical, surgical, or hospital expenses
18 incurred for treatment of the injury that will remain unpaid after
19 the settlement.

20 (4) A release filed with the compensation court in
21 accordance with subsection (3) of this section shall be final and
22 conclusive unless procured by fraud. Amounts to be paid by the
23 employer to the employee pursuant to such release shall be paid
24 within thirty days of filing the release with the compensation court.
25 Fifty percent shall be added for payments owed to the employee if

1 made after thirty days after the date the release is filed with the
2 compensation court. Upon making payment owed by the employer as set
3 forth in the release (i) such release shall be a full and complete
4 discharge from further liability for the employer on account of the
5 injury, including future medical, surgical, or hospital expenses,
6 unless such expenses are specifically excluded from the release and
7 (ii) the court shall enter an order dismissing the action with
8 prejudice.

9 ~~(4)~~-(5) The fees of the clerk of the compensation court
10 for filing, docketing, and indexing an application for an order
11 approving a lump-sum settlement or filing a release as provided in
12 this section shall be fifteen dollars. The fees shall be remitted by
13 the clerk to the State Treasurer for credit to the Compensation Court
14 Cash Fund.

15 Sec. 2. Original section 48-139, Reissue Revised Statutes
16 of Nebraska, is repealed.