

### Jurisdiction (48-152)

1. Injuries and O.D. contracted in State
2. Contract of employment in State, or
3. Employment principally localized in State

### Limitations (48-137)

1. Maintain claim within 2 years of injury, death or last payment of compensation (includes payment of medical whether paid by w/c or group insurance), whichever is later.

### Report of injury (48-144.01(2))

1. Must file report with NWCC within 10 days after the employer or insurer has been given notice of or has knowledge of an injury which results in death, time away from work, restricted work, loss of consciousness or medical treatment other than first aid.

### Burden of Proof

1. Accident/exposure likely caused or aggravated the condition – preponderance of evidence required.
2. Repetitive trauma --- treated same as accident, date of manifestation is date reasonable person would know nature of condition and its work relatedness.
3. Aggravation – when a work related injury combines with a pre---existing injury to produce additional disability, the entire disability is compensable.

### Notice of Injury (48-133)

1. Notice of accident shall be given to employer as soon as practicable.

### AWW/Rate (48-126)

1. AWW --- 26 weeks preceding injury, overtime hours included at straight time rate. Abnormally low weeks should be excluded. AWW for PPD based on work week of minimum 5 days or 40 hours, whichever results in higher AWW.
2. Rate – TTD/TPD/PPD– 2/3 AWW subject to max and min.

### Benefits

1. Medical (48---120) reasonably required to relieve pain or promote & hasten the employee's restoration to health and employment
  - a. Rule 50 requires employer to give employee the right to choose a family physician as soon as possible after the employer knows of the injury.

Failure to give employee Form 50 may lead to future disputes over authorized doctors & treatment. Employee always has the right to choose surgeon for major surgery.

- b. Mileage – any reasonable mileage incurred for medical treatment related to injury; some limits when an alternate physician is available in the local community or a closer community.
- c. Fee Schedule – Fees determined by contracted agreement or fee schedule.

### 2. TTD

- a. No limit to number of weeks
- b. Rate subject to minimum and maximum
- c. Waiting period - 7 calendar days, if disability lasts more than 6 weeks – first 7 days retroactive.
- d. Basis for termination
  - i. Return to work
  - ii. Reaches MMI

### 3. TPD

- a. If working light duty or earning less than if employed in full capacity, receive 2/3 difference between AWW and net amount earned in modified job.

### 4. PPD

- a. see scheduled injuries chart
- b. AMA Guides to Permanent Impairment, 5<sup>th</sup> or 6<sup>th</sup> Edition, shall be considered along with other factors.
- c. Body as a Whole injuries – entitled to Loss of Earning Capacity benefits if employee has a rating or perm. restrictions; typically started by using functional impairment rating – multiply PPD AWW x 2/3 then x rating; once LOEC is determined recalculate new rate as above using LOEC rating and issue adjustment check
- d. Vocational rehabilitation – available to workers unable to perform “suitable work” for which they have previous training & experience.
  - a. TTD payments during pendency of court-approved voc rehab plan
- e. Multiple scheduled member injuries – may be entitled to PPD based on LOEC if restrictions cause LOEC to be above 30%

## Nebraska Workers' Compensation At-A-Glance - Continued

5. PTD
  - a. Lifetime weekly benefit if employee is permanently and totally disabled; paid for life if injury prevents return to work.
6. Death (48-122)
  - a. Burial expense - \$10,000
  - b. Dependents
    - i. Widow, widower, child or children
      - a) Till death of widow or widower or until remarriage, unless there remain dependent children
      - b) Children – until age 19 or while enrolled in accredited education institution, can continue benefits until age 25
        1. Benefits continue if child is physically or mentally incapable of support or actually dependent.
7. Penalty
  - a. Absent a reasonable controversy as to the employee's entitlement to benefits, payment must be sent within 30 days of entitlement. Failure to do so will result in 50% penalty.
  - b. Late or nonpayment of medical bills may result in order for payment of attorney fees.

### Reduction in Benefits

1. No partial reductions allowed – only total liability defenses recognized. (Very limited exception-below)
  - a. Intoxication (drugs or alcohol) and willful negligence are affirmative defenses. Intoxication must actually cause the accident or injury.
  - b. Apportionment of LOEC benefits may be possible if prior body as a whole injury was compensated and was a continued source of disability.

### Subrogation

1. Employer/carrier entitled to subrogation of 3<sup>rd</sup> party recovery, subject to a "reasonable division" which would include attorney fees for employee's attorney.
2. Employer must be made a party, in any 3<sup>rd</sup> Party Action, by plaintiff.

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