

# Nebraska Workers' Compensation



## What is workers' compensation?

If an employee is injured by accident or occupational disease arising out of and in the course of their employment, they may be entitled to workers' compensation benefits. Workers' compensation insurance covers the risk of an employee getting injured on the job. Workers' compensation is different and separate from unemployment compensation, Social Security disability benefits, health and accident insurance, or other disability benefit plans provided by the employer.

The Nebraska Workers' Compensation Act (the Act) is found at Section (§) 48-101 to § 48-1,118 of the Nebraska Revised Statutes (laws, written as "NEB. REV. STAT."). It provides the only avenue for employees to obtain benefits from their employer for their work-related injuries.

## Who is covered by Nebraska workers' compensation?

The Act applies to most employees. It does not apply to independent contractors. Most Nebraska employers are required to have workers' compensation insurance to make sure coverage is in place if employees are injured while working. Exceptions, such as for federal employers, can be found in NEB. REV. STAT. § 48-106.

## Who May Be Entitled To Benefits?

An injured employee who is covered by the Act may obtain benefits:

- if the injury was caused by an accident or disease that arose out of and in the course of their employment and the injury occurred in Nebraska,
- the employer was performing work in Nebraska or the employment is in Nebraska, or
- the employee was hired in Nebraska and the employer is doing business or performing work in Nebraska, whether or not the injury occurred in Nebraska.

If an employee dies as a result of a work-related injury, the employee's dependents may be entitled to benefits under the Act.

## What Benefits May Be Available?

### A. Medical Benefits

The employer / insurer is liable to pay for all reasonable medical and hospital services, appliances, prescribed drugs, prosthetic devices, and other supplies along with mileage that are necessary as the result of a work-related injury. Medical benefits may include reasonable travel expenses in some situations. The mileage rates for allowable travel are listed in the [Tables of Maximum/Minimum Compensation Benefits, Burial Benefits, and Mileage Reimbursement Rates](#) on the Nebraska Workers' Compensation Court (court) website.

**Choice of doctor.** The employer must notify the employee that the employee has the right to choose a physician they or their family have seen as their primary treating physician. If the employee does not

choose a physician, the employer may select the physician. More information about [Choosing a Doctor for a Work-Related Injury](#) can be found on the court's website.

An employer / insurer may also ask an injured employee to be examined by a doctor chosen by the employer / insurer at the company's expense.

The employee should promptly submit expenses for medical care to their employer or to the insurer for payment.

## B. Indemnity Benefits

"Indemnity benefits" (also called "disability benefits") may be paid when an employee misses time from work or suffers permanent effects after a work-related injury. Employees may be entitled to *temporary* and / or *permanent* disability benefits.

### 1. Temporary Disability Benefits

Temporary disability benefits may be for either:

- (a) *total* disability, or
- (b) *partial* disability.

**Temporary Total Disability Benefits.** An employee may be entitled to temporary total disability benefits for as long as they are unable to work as a result of their injury. Temporary total disability entitles the employee to two-thirds of their average weekly wage, subject to the maximum and minimum benefit rate per week. More information can be found in the [Tables of Maximum / Minimum Compensation Benefits, Burial Benefits, and Mileage Reimbursement Rates](#) on the court's website.

**Temporary Partial Disability Benefits.** Benefits are paid when the employee is able to return to work but under limited circumstances such as for a few hours a day or at a job which pays less than the job held at the time of the injury.

Temporary disability benefits usually end when an employee has reached *maximum medical improvement* or has been released from medical care.

An employee is entitled to temporary disability benefits while participating in an approved vocational rehabilitation plan.

### 2. Permanent Disability Benefits

*Permanent disability benefits* may be either:

- (a) permanent partial or permanent total disability of certain body parts listed in the Act ("scheduled" injuries) or,
- (b) permanent partial or permanent total disability to the *body as a whole*.

**Permanent Partial Disability for Loss of a Scheduled Body Part.** Benefits are paid for the loss or loss of use of a body part such as a leg or hand based upon the value the Act assigns to various body parts.

**Permanent Total Disability for Loss of Multiple Scheduled Body Parts.** The total loss or total loss of use of two scheduled body parts in one accident is considered permanent total disability.

**Permanent Partial Disability to the Body as a Whole.** Benefits are paid for permanent disability resulting from a body as a whole injury, such as neck, back, or head. Generally, if the injured body part isn't included in the schedule of body parts, the injury is considered to be to the body as a whole. Typically, compensation for permanent partial disability to the body as a whole is compensated on the basis of loss of earning capacity. More information about [Loss of Earning Power Evaluations in Nebraska](#) can be found on the court's website.

**Permanent Partial Disability for Loss of Scheduled Body Parts.** When an employee has an injury to more than one scheduled body part, they may request that compensation be determined based on loss of earning capacity.

**Permanent Total Disability Benefits.**

If an employee is permanently unable to return to the workforce as a result of their injuries, permanent total disability (PTD) benefits may be due.

**3. Death Benefits**

If the injury results in the death of the employee, the surviving spouse and other actual dependents may be entitled to death benefits. Additionally, burial expenses may be paid.

**C. Return-to-Work Services (also known as Vocational Rehabilitation Benefits)**

An employee may be eligible for return-to-work services (vocational rehabilitation benefits), such as job placement with the same or a new employer or formal training. Temporary disability benefits are paid while an employee is participating in a court-approved job placement or formal training plan.

These services are voluntary and, if not offered by the employer / insurer, the employee can request vocational rehabilitation services. An employee can contact their employer, the claims representative of their employer's insurer, or the court's Vocational Rehabilitation section to request return to work services. If it is determined that the employee will need vocational rehabilitation services, a court-certified vocational rehabilitation counselor can submit a plan of vocational rehabilitation services to the court for approval.

More information about [return-to-work services](#) can be found on the court's website.

**When Can Benefits Begin?**

Indemnity (wage replacement) benefits begin on the eighth calendar day of disability, after a seven-day *waiting period*. If disability (either temporary or permanent) continues for six weeks or longer, then benefits are payable for the waiting period. See NEB. REV. STAT. § 48-119. In that situation, benefits for the waiting week are paid after six weeks elapse after the accident.

Medical benefits may begin on the date of the work injury.

Return-to-work (vocational rehabilitation) benefits may begin when the employee has permanent impairment or restrictions **and** is unable to perform suitable work within their training and experience.

## **What should an employee do when they are injured at work?**

An employee should notify their employer of any work-related injury or occupational disease as soon as possible. After a work-related injury, the employee also should seek treatment for urgent medical issues and inform their treating physician that it is a work-related injury.

## **Can an employee obtain the name and contact information of the employer's workers' compensation insurer?**

Yes. This information can be obtained by contacting the employer or the court. Insurance companies are required to report to the court each policy of workers' compensation insurance they issue. A small number of Nebraska employers are self-insured for workers' compensation.

You can find an employer's workers' compensation insurance coverage using the [Coverage Lookup](#) app on the court's website. The court's website also has a list of [Self-Insured Employers](#).

## **What should an employer do after receiving notice of an on-the-job injury?**

The employer should notify its workers' compensation insurer of the injury or occupational disease. The employer / insurer should file a First Report of Alleged Occupational Injury or Illness with the court within 10 days of the date of the notice of injury. The injured employee is not responsible for filing this report.

## **How long does it take to receive compensation after the injury is reported?**

Compensation payments for lost wages (indemnity) and medical expenses are typically paid within 30 days after notice of the injury. However, payment of benefits might be delayed if liability for the claim is disputed.

## **What happens if benefits are not paid on time?**

A 50 percent penalty may be added to indemnity benefits for waiting time if payment is not made within 30 days of the notice of injury or impairment. The 50 percent penalty is due if there is no reasonable dispute regarding the employee's claim for workers' compensation benefits. Waiting-time penalties may also apply when there is a failure to pay compensation after 30 days from the entry of a final order, award or judgment of the court.

## **When are permanent disability benefits paid?**

After the employee has been released from medical treatment and has been placed at maximum medical improvement, permanent benefits may be payable. The employer / insurer may offer payment in a one-time lump sum or pay weekly benefits.

## **What is required for an employer / insurer to receive a release from liability?**

Under the Act, an employer / insurer is only released from liability (legal obligation to pay workers' compensation benefits) if the employee and employer / insurer agree to:

- (a) file a Lump Sum Settlement Application which is reviewed and approved by the court, or
- (b) file a Release of Liability and the court enters an order dismissing the case.

If the employee is not represented by an attorney, the settlement must be reviewed by the court to ensure it is in the best interests of the employee.

### **What may an employee do if the employer / insurer does not pay benefits?**

- **Contact the Employer / Insurer.** The employee or their attorney may contact the employer / insurer to discuss the benefits that may be due. You can find the insurer's phone number by using the [Coverage Lookup](#) app on the court's website or by calling the court's information line (800-599-5155 or 402-471-6468).
- **Request Informal Dispute Resolution (mediation).** Any person involved in a workers' compensation claim may request informal dispute resolution (mediation) to help settle an issue or an entire case without the need for a formal hearing. This service is free of charge. To request informal dispute resolution, call the court's information line (800-599-5155 or 402-471-6468) and ask to speak with the mediation coordinator or complete the [Informal Dispute Resolution Request Form](#) on the court's website. More information about [Informal Dispute Resolution and Mediation](#) can be found on the court's website.
- **Request an Independent Medical Exam.** The court's Independent Medical Examiner process may provide a way to get unbiased answers to questions about an employee's medical condition or related issues when there is a disagreement. More information about [Independent Medical Exams](#) can be found on the court's website.
- **File a Petition.** The employee or their attorney may file a petition (lawsuit) with the court. [Petition forms](#) can be found on the court's website or obtained from the Clerk of the Court. Employees representing themselves in court are held to the same standards, laws, and rules as attorneys.

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General questions may be directed to the court's information line at **800-599-5155 or 402-471-6468** or you may contact the court by email from the court's website (<https://www.wcc.ne.gov/>). **Case-specific questions should be directed to a private lawyer, as the Nebraska Workers' Compensation Court cannot provide legal advice. Court staff may not complete the forms for you.**

**Nebraska Workers' Compensation Court**  
**P.O. Box 98908**  
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