



STATE OF NEBRASKA WORKERS' COMPENSATION COURT

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Notice regarding new Release of Liability option and new Release of Liability form

LINCOLN, Neb. — A new option to file a Release of Liability for workers' compensation claims becomes available effective August 28, 2021 following the passage of Legislative Bill (LB) 256, approved by Governor Ricketts on May 21, 2021. The Nebraska Workers' Compensation Court has developed a new pleading form to be filed for this purpose.

LB 256 revises NEB. REV. STAT. § 48-139(1)(a)(ii) and (3)(b) of the Nebraska Workers' Compensation Act to provide the option to file a Release of Liability with respect to the settlement of indemnity and past medical benefits involving certain claims in which the claimant is a Medicare beneficiary, is eligible to for Medicare, or has a reasonable expectation of becoming eligible for Medicare within 30 months after the settlement execution date.

The changes made by LB 256 apply when the employee's right to receive future medical, surgical, and hospital services as provided in § 48-120 is specifically excluded from the Release **and** Medicare has either not paid medical, surgical, or hospital expenses or Medicare has been reimbursed for such expenses at the time the settlement is executed.

The new form, *Release of Liability—Future Medical Liability* (<https://www.wcc.ne.gov/resources/court-forms-and-publications/release-of-liability-future-medical-liability>), should be used in all cases where future medical liability is excluded from the Release. This form must be used if:

1. The employee **is not** a Medicare beneficiary, is not eligible for Medicare, or has no reasonable expectation of becoming eligible for Medicare within 30 months after the settlement execution date **and** the employee's right to receive future medical, surgical, and hospital services as provided in § 48-120 is specifically excluded from the settlement.

OR

2. The employee is a Medicare beneficiary, is eligible for Medicare, or has a reasonable expectation of becoming eligible for Medicare within 30 months after the settlement execution date **and** the employee's right to receive future medical, surgical, and hospital services as provided in § 48-120 is specifically excluded from the settlement **and**

Medicare has not paid medical, surgical, or hospital expenses; or, if Medicare has paid medical, surgical, or hospital expenses for which it claims it is entitled to reimbursement, Medicare has been reimbursed for such expenses at the time the settlement is executed.

Please Note:

- The parties have the option to file an Application for Lump Sum Settlement, rather than a Release, **for any case**.
- If the parties elect to close future medical liability for a particular date of injury, pursuant to NEB. REV. STAT. § 48-139(2), the parties must file an Application for Lump Sum Settlement for review by the court if the claimant:
 - is a Medicare beneficiary,
 - is *eligible* for Medicare, or
 - has a *reasonable expectation* of becoming eligible for Medicare within 30 months after the settlement execution date.
- If the parties elect to close future medical liability for a particular date of injury and the claimant *is not* a Medicare beneficiary, *is not* eligible for Medicare, or *does not* have a reasonable expectation of becoming eligible for Medicare within 30 months after the settlement execution date, then the parties should use the *Release of Liability—General* form (<https://www.wcc.ne.gov/resources/court-forms-and-publications/release-of-liability-general>), which has been revised for purposes of consistency.
- These forms are approved by the Nebraska Workers' Compensation Court pursuant to § 48-139(3). For all settlements by Release, the court encourages the use of these form documents as-is whenever possible. In any case, additional information / documentation pertaining to the Release of Liability may be attached to the Release form in an addendum.

For more information about workers' compensation in Nebraska, refer to the Nebraska Workers' Compensation Court website (<http://www.wcc.ne.gov>) or call our Information Line at 402-471-6468 or 800-599-5155 (toll free).

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