

CHAPTER 1128

WORKERS' COMPENSATION — REPLACEMENT OF PERMANENT PROSTHETIC DEVICES

H.F. 2411

AN ACT relating to replacements of permanent prosthetic devices for injured workers.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. [Section 85.27, subsection 1](#), Code 2022, is amended to read as follows:

1. *a.* The employer, for all injuries compensable under [this chapter](#) or [chapter 85A](#), shall furnish reasonable surgical, medical, dental, osteopathic, chiropractic, podiatric, physical rehabilitation, nursing, ambulance, and hospital services and supplies therefor and shall allow reasonably necessary transportation expenses incurred for such services. The employer shall also furnish reasonable and necessary crutches, artificial members, and appliances ~~but~~.

b. An employer shall not be required to furnish more than one set of permanent prosthetic devices.

c. Paragraph “b” shall not apply if a permanent prosthetic device is a replacement of a permanent prosthetic device that is medically necessary as a result of a compensable injury that occurred while the employee was employed by the employer and the replacement of the prosthetic device would be considered reasonable medical care under [this chapter](#).

Sec. 2. [Section 85.27, subsection 5](#), Code 2022, is amended to read as follows:

5. *a.* When an artificial member or orthopedic appliance, whether or not previously furnished by the employer, is damaged or made unusable by circumstances arising out of and in the course of employment other than through ordinary wear and tear, the employer shall repair or replace it. When any crutch, artificial member or appliance, whether or not previously furnished by the employer, either is damaged or made unusable in conjunction with a personal injury entitling the employee to disability benefits or services as provided by [this section](#), or is damaged in connection with employee actions taken which avoid such personal injury, the employer shall repair or replace it.

b. Subject to paragraph “a” but notwithstanding any other provision of [this section](#), an employer shall not be required to provide for the repair or replacement of an employee’s permanent prosthetic device if the employee has an account credited to the employee pursuant to [section 85.65, subsection 2](#), in relation to that permanent prosthetic device.

Sec. 3. [Section 85.35](#), Code 2022, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. *a.* If an injury relating to a claim results in the injured worker needing a medically necessary permanent prosthetic device or an alteration of an existing medically necessary permanent prosthetic device, a settlement pursuant to [this section](#) must describe the medically necessary permanent prosthetic device and identify which portion of the settlement proceeds are for the purpose of covering the estimated cost of future repair or replacement of the device.

b. Upon the approval of a settlement by the workers’ compensation commissioner, moneys identified for the purpose of covering the cost of future repair or replacement of a permanent prosthetic device shall be paid to the treasurer of state as the custodian of the second injury fund for administration pursuant to [section 85.65, subsection 2](#), [section 85.66](#), and [section 85.67A](#).

c. Notwithstanding any other provision of [this chapter](#), moneys identified for the purpose of covering the estimated cost of future repair or replacement of a permanent prosthetic device shall not be used to calculate an injured worker’s compensation schedule.

Sec. 4. [Section 85.45](#), Code 2022, is amended by adding the following new subsection:

NEW SUBSECTION. 4. When commuting future payments pursuant to [this section](#), if the claim for workers’ compensation benefits was related to an injury that resulted in the injured worker needing a medically necessary permanent prosthetic device or an alteration of an

existing medically necessary permanent prosthetic device, a portion of the lump sum payment must be designated for the purpose of covering the estimated cost of repair or replacement of the permanent prosthetic device. Moneys identified pursuant to [this subsection](#) shall be paid to the treasurer of state as custodian of the second injury fund for administration pursuant to [section 85.65, subsection 2, section 85.66, and section 85.67A](#).

Sec. 5. [Section 85.48](#), Code 2022, is amended to read as follows:

85.48 Partial commutation.

1. When partial commutation is ordered, the workers' compensation commissioner shall fix the lump sum to be paid at an amount which will equal the future payments for the period commuted, capitalized at their present value upon the basis of interest at the rate provided in [section 535.3](#) for court judgments and decrees. Provisions shall be made for the payment of weekly compensation not included in the commutation with all remaining payments to be paid over the same period of time as though the commutation had not been made by either eliminating weekly payments from the first or last part of the payment period or by a pro rata reduction in the weekly benefit amount over the entire payment period.

2. When commuting future payments pursuant to [this section](#), if the claim for workers' compensation benefits was related to an injury that resulted in the injured worker needing a medically necessary permanent prosthetic device or an alteration of an existing medically necessary permanent prosthetic device, a portion of the lump sum payment must be designated for the purposes of covering the estimated cost of repair or replacement of the permanent prosthetic device. Moneys identified pursuant to [this subsection](#) shall be paid to the treasurer of state as custodian of the second injury fund for administration pursuant to [section 85.65, subsection 2, section 85.66, and section 85.67A](#).

Sec. 6. [Section 85.61](#), Code 2022, is amended by adding the following new subsection:

NEW SUBSECTION. 01. "Alteration" means a material change to a permanent prosthetic device that is necessary due to an employee's injury, without which would not allow the injured employee use of the prosthetic device as effectively as prior to the injury.

Sec. 7. [Section 85.65](#), Code 2022, is amended to read as follows:

85.65 Payments to second injury fund.

1. The employer, or, if insured, the insurance carrier in each case of compensable injury causing death, shall pay to the treasurer of state for the second injury fund the sum of twelve thousand dollars in a case where there are dependents and forty-five thousand dollars in a case where there are no dependents. The payment shall be made at the time compensation payments are begun, or at the time the burial expenses are paid in a case where there are no dependents. However, the payments shall be required only in cases of injury resulting in death coming within the purview of [this chapter](#) and occurring after July 1, 1978. These payments shall be in addition to any payments of compensation to injured employees or their dependents, or of burial expenses as provided in [this chapter](#).

2. *a.* The employer, or, if insured, the insurance carrier shall pay to the treasurer of state for the second injury fund the sum of moneys designated for the purpose of covering the estimated cost of repair or replacement of a permanent prosthetic device for an injured worker pursuant to [section 85.35, 85.45, or 85.48](#).

b. (1) Upon receipt of moneys pursuant to paragraph "a", the treasurer of state shall credit the employee for the full amount received.

(2) Moneys received by the treasurer of state pursuant to this paragraph for a permanent prosthetic device that was not medically necessary prior to an injury shall be credited to the injured worker in a new account relating to that permanent prosthetic device.

(3) Moneys received by the treasurer of state pursuant to this paragraph for an existing permanent prosthetic device that requires alteration due to an injury shall be credited to the employee's account relating to that prosthetic device if one exists, or credited to a new account if one is not in existence for that prosthetic device.

c. Moneys credited to an employee pursuant to [this subsection](#) may only be used for the purposes designated in [section 85.67A](#) and only in relation to the permanent prosthetic device for which the account was created.

Sec. 8. [Section 85.66, subsection 2](#), Code 2022, is amended to read as follows:

2. The treasurer of state is charged with the conservation of the assets of the second injury fund. Moneys collected in the second injury fund shall be disbursed only for the purposes stated in [this subchapter](#), and shall not at any time be appropriated or diverted to any other use or purpose. ~~Except for reimbursements to the attorney general provided for in [section 85.67](#), disbursements~~ Disbursements from the fund shall only be paid by the treasurer of state only for reimbursements pursuant to [section 85.67](#), for payments pursuant to [section 85.67A](#), or upon the written order of the workers' compensation commissioner. The treasurer of state shall invest any surplus moneys of the fund in securities which constitute legal investments for state funds under the laws of this state, and may sell any of the securities in which the fund is invested, if necessary, for the proper administration or in the best interests of the fund.

Sec. 9. **NEW SECTION. 85.67A Administration of fund — permanent prosthetic devices.**

1. For the purposes of [this section](#):

a. “Prosthetic device” or “device” means a permanent prosthetic device for which an account has been established pursuant to [section 85.65, subsection 2](#).

b. “Prosthetics supplier” means a person or business who makes or repairs permanent prosthetic devices.

c. “Voucher” means a written statement that identifies all of the following:

- (1) The prosthetic device requiring repair or replacement.
- (2) Whether the device appears to require repair or replacement and the reason the device requires repair or replacement.
- (3) The exact amount, including taxes, necessary to pay for the repair or replacement of the device.

2. The treasurer of state shall pay moneys from an account established pursuant to [section 85.65, subsection 2](#), to a prosthetics supplier for the replacement or repair of a prosthetic device upon the receipt of a voucher.

3. a. If an employee dies prior to receiving all moneys credited to the employee pursuant to [section 85.65, subsection 2](#), the treasurer of state shall pay the remaining moneys to the employer which originally contributed such moneys.

b. If an employer cannot be paid pursuant to paragraph “a”, the treasurer of state shall pay remaining moneys to the insurer named in relation to the claim from which the credits arose.

c. If an employer or insurer cannot be paid pursuant to paragraphs “a” and “b”, the treasurer of state shall pay remaining moneys to the employee’s beneficiaries.

d. If the employee did not designate any beneficiaries, remaining moneys shall be paid to the employee’s estate.

4. The labor commissioner and the commissioner of insurance may adopt rules pursuant to [chapter 17A](#) to implement [this section](#). Such rules may include guidelines for which prosthetics suppliers may provide a repair or replacement for a prosthetic device, the form a voucher must take, and information in addition to content described in [subsection 1](#), paragraph “c”, that must appear on a voucher.

Approved June 14, 2022