



Choosing a Doctor for a Work-Related Injury — Rule 50

NOTE: The rights to choose and change doctors are governed by statute and rules. This is a simplified explanation of those rights. Please refer to Nebraska Revised Statutes (laws, written as “NEB. REV. STAT.”) Section (§) 48-120 and Nebraska Workers' Compensation Court Rules 49, 50, and 56 for more information.

If you are the EMPLOYEE:

Tell your employer as soon as possible when you have an injury at work. After you report a work injury, your employer should tell you about your right to choose a primary treating doctor to treat you for that injury (“doctor” means a person licensed to practice medicine and surgery, osteopathic medicine, chiropractic, podiatry, or dentistry). You may use the court’s Form 50, *Choice of Doctor*, to tell the employer your choice of doctor. Your employer should provide you with this form.

If your employer does tell you about your right to choose a primary treating doctor, you may choose ONLY a doctor who has treated you or a member of your family before your injury (“family member” means your spouse, child, parent, stepchild or stepparent). The doctor must have records of that treatment. If your employer asks, you or your family member must give your employer written permission to verify treatment with this doctor.

If you have such a doctor and want that doctor to treat you for your work injury, you need to *tell your employer the name of the doctor*. Unless it is an emergency, you cannot get any treatment for the work injury until you have given your doctor’s name to your employer. If it is an emergency, get the treatment you need, then tell your employer the name of your doctor.

Your employer can choose the doctor to treat you if:

- you don’t have a family doctor (explained above);
- you don’t tell your employer the name of your family doctor; or
- you refuse to give permission for your employer to verify treatment.

It is best if you give your employer the name of your doctor in writing, which should be done on the Form 50, *Choice of Doctor*, that should be given to you by your employer.

After your employer tells you about your right to choose a doctor there can be no change in the doctor chosen unless you and your employer agree to the change or the court orders a change. This is true whether you or your employer chose the doctor in the first place. If you are referred to another doctor for special tests or services, this is not a change in doctor.

If your employer does not tell you about your right to choose a doctor, you may choose ANY doctor as your treating doctor. In this situation, you are not limited to choosing a doctor who has treated you or a member of your family before your injury.

There are other times when you can choose your doctor. You can choose your own doctor to do major surgery, if your injury involves dismemberment, or if your claim is denied.

You may have to pay for medical treatment you receive if you do not follow the rules about choosing or changing doctors.

If you are the EMPLOYER:

*You must tell the employee about their right to choose a doctor to treat an employee's work injury as soon as you can after you know about an injury. You should use the court's Form 50, *Choice of Doctor*, to tell the employee about these rights. This form is available on the court's website (<http://www.wcc.ne.gov/>).*

You may choose the doctor if, after telling the employee about the right to choose:

- *no doctor has treated the employee or a member of the employee's family before the work injury;*
- *or the employee does not select a doctor who has records of such treatment;*
- *or you are refused the authorization needed to verify such prior treatment, if you ask for it.*

NOTE: You must allow the employee a reasonable amount of time to choose the doctor.

After telling the employee about the right to choose, there can be no change in doctor unless you and the employee agree or the court orders a change. This is true whether you or your employee chose the doctor. If the employee is referred to another doctor for special tests or services, this is not a change in doctor.

Even if you tell the employee about the right to choose and then you get to choose the doctor, there are times when the employee is free to choose a doctor. The employee can choose the doctor:

- *to do major surgery;*
- *if the injury involves dismemberment; or*
- *if the claim is denied.*

If you do not tell the employee about the right to choose the doctor, the employee can then choose ANY doctor to provide treatment for the work injury.

Common questions asked by employees:

Can my employer make me see a doctor other than the one I've chosen to treat me?

Your employer cannot make you get *treatment* from another doctor. However, your employer or their insurance company can ask you to see another doctor of their choice for an *examination*. This doctor will not start treating you; it will just be an examination. If you unreasonably refuse to submit to the examination, you may not get benefit payments for the time you refuse to be seen. You may be asked to see more than one doctor for other examinations.

What if I want to change my primary treating doctor?

If the doctor has been chosen AFTER your employer told you of your rights, you can't change doctors unless your employer agrees or the court orders a change. If you want to change, talk to your employer about the reasons. If your employer agrees, you may change doctors.

What if my employer wants me to change doctors?

If the doctor has been chosen AFTER your employer told you of your rights, you can't be made to change your doctor unless you agree or unless the court orders you to change.

What if it is an emergency?

If you have a medical emergency, see any doctor as soon as you can. The rules about choosing a doctor don't apply until after the emergency is over. If you need more treatment, the rules to choose or change your doctor will apply.

What if my employer or the insurer has a managed care plan?

You can still choose a doctor, but it must be one who has treated you or a family member before your injury. Your doctor must agree to the rules of your employer's managed care plan. If you don't have a doctor, you may choose among the doctors signed up with your employer's managed care plan.

What if my employer won't agree to let me change doctors?

You can ask for Informal Dispute Resolution (IDR), also known as mediation, from the court. Before you ask for mediation, you must first try to get your employer to agree to your request to change doctors. If this doesn't work, you or your employer can ask for help through the court's mediation process. A court staff member will try to help you and your employer come to an agreement. If mediation doesn't work, you have the option to file a motion or petition (lawsuit) with the court for a judge to decide the matter. More information about the IDR process and other dispute resolution options is available on our website (<http://www.wcc.ne.gov/>)

What if my employer doesn't tell me about my rights to choose a doctor?

You may choose ANY doctor to treat you.

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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.**

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