

§2951. Provision for structured awards

1. Definition. As used in this subchapter, the term "health care services" means acts of diagnosis, treatment, medical evaluation or advice or such other acts as may be permissible under the health care licensing, certification or registration laws of this State.

[PL 1985, c. 804, §§ 16, 22 (NEW).]

2. Structured awards; periodic payments. In any action for professional negligence, the court in which the action is brought shall, at the request of either party, enter a judgment ordering that money damages or its equivalent for future damages of the judgment creditor, exclusive of litigation expenses, be paid in whole or in part by periodic payments rather than by a lump-sum payment if the award equals or exceeds \$250,000 in future damages, including, but not limited to, expert witness fees, attorneys' fees and court costs.

A. In the case of a jury trial, prior to the case being presented to the jury, the judge shall make a preliminary determination as to whether or not a verdict is likely to result in an award for future damages in excess of the threshold set out in this subsection. If such a determination is made, the judge shall instruct the jury to apportion damages between past and future in those categories of damages required under this subchapter to be structured. In entering a judgment ordering the payment of future damages by periodic payments, the court shall make a specific finding as to the dollar amount of periodic payments which will compensate the judgment creditor for those future damages. In determining the amount of the periodic payment, the court shall consider the amount of interest that would be earned on the amount had it been paid presently. As a condition to authorizing periodic payments of future damages, the court must be satisfied that there are adequate financial resources available to the judgment debtor. If not so satisfied, the judge may either deny structuring the award or require adequate security to be deposited with the court. Upon termination of periodic payments of future damages, the court shall order the return of the security, or so much as remains, to the judgment debtor. [PL 1985, c. 804, §§ 16, 22 (NEW).]

B. The judgment ordering the payment of future damages by periodic payment shall specify the recipient or recipients of the payments, the dollar amount of the payments, the interval between payments and the number of payments or the period of time over which payments shall be made. The payments shall only be subject to modification in the event of death of the judgment creditor. [PL 1985, c. 804, §§ 16, 22 (NEW).]

C. In the event that the court finds that the judgment debtor has exhibited a continuing pattern of failing to make the payments, as specified in paragraph B, the court shall find the judgment debtor in contempt of court and, in addition to the required periodic payments, shall order the judgment debtor to pay the judgment creditor all damages caused by the failure to make these periodic payments, including court costs and attorneys' fees. [PL 1985, c. 804, §§ 16, 22 (NEW).]

D. Money damages awarded for loss of future earnings and loss of services shall not be reduced or payments terminated by reason of the death of the judgment creditor, but shall be paid to the judgment creditor's estate. In those cases, the court which rendered the original judgment may, upon petition of any party in interest, modify the judgment to award and apportion the unpaid future damages, exclusive of unpaid damages for future medical treatment, in accordance with this subchapter. [PL 1985, c. 804, §§ 16, 22 (NEW).]

E. Following the occurrence or expiration of all obligations specified in the periodic payment judgment, any obligation of the judgment debtor to make further payments shall cease and any security given, pursuant to paragraph A shall revert to the judgment debtor. [PL 1985, c. 804, §§ 16, 22 (NEW).]

F. As used in this section:

(1) "Future damages" includes damages for future medical treatment, care or custody, loss of future earnings and loss of the economic value of services. [PL 1985, c. 804, §§ 16, 22 (NEW).]

[PL 1985, c. 804, §§ 16, 22 (NEW).]

SECTION HISTORY

PL 1985, c. 804, §§16,22 (NEW).

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