

Article - Courts and Judicial Proceedings

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§3-2A-08.

(a) Evidence of advanced payments made pursuant to § 19-104(b) of the Insurance Article is not admissible in any arbitration or judicial proceeding for damages due to medical injury until there is an award, in the case of arbitration proceedings, or a verdict, in the case of judicial proceedings, in favor of the claimant and against the person who made the advanced payments. Upon the finding of such an award or verdict, the arbitration panel, or the trier of fact, shall make a finding of total damages, and shall then deduct whatever amounts it finds were paid by or on behalf of the defendants pursuant to § 19-104(b) of the Insurance Article. The net amount, after this deduction, shall be entered as its award or verdict.

(b) If the award or verdict exceeds the amount of advanced payments and the arbitration panel or the court finds that the advanced payments were reasonable, the panel or the court may (1) order that the amount by which the award or verdict exceeds the amount of advanced payments be paid over a period of time consistent with the needs of the claimant, rather than in a lump sum, and (2) authorize, as part of its order, the creation of a trust or other mechanism to assure the periodic payments. The panel or court shall provide to the claimant the option to choose either a lump sum or payments paid over a period of time.

(c) If the advanced payment exceeds the liability of the person making it, the arbitration panel or the court on appeal may order such adjustments as justice may require under the award or verdict, including, where appropriate, contribution by other parties found to be liable. In no event shall an advance payment in excess of the liability of the person making it be repayable by the person receiving it.

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