



Protect AISH Payments

The McKellar Structured Settlement™

Structured settlement payments will not affect entitlement to Assured Income for the Severely Handicapped benefits. A cash settlement will.

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SETTLEMENTS

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SETTLEMENTS AND AISH

STRUCTURED SETTLEMENTS PRESERVE AISH ENTITLEMENT FOR PLAINTIFFS

Most personal injury lawyers understand the benefits of structured settlements—secure, tax-free payments that reduce the risk of prematurely spending settlement funds.

In Alberta, structures offer another very important benefit which is not available from conventional cash settlements. They allow a plaintiff to retain his or her AISH benefits, regardless of the amount of structure funding or the size of the monthly payments.

On May 1, 2007, Chapter A-45.1 of the AISH Act and Alberta Regulation 91/2007 of the AISH General Regulation were amended to change the definition of “income” in determining entitlement to AISH benefits. The test for purposes of AISH entitlement became “income reportable under the Income Tax Act”. Payments from a structured settlement are not income reportable under the Income Tax Act. Consequently, structure payments are not considered when determining entitlement to AISH benefits.

Further, neither the structured settlement nor the annuity used to fund it are an asset of the plaintiff. The structured settlement annuity is, in fact, owned by the defendant’s casualty insurer or an assignee – not the plaintiff. The plaintiff has no legal or equitable title to the annuity. He or she can not assign the payments, use the structure as collateral, or cash it in. The plaintiff’s only right under the terms of the settlement is to receive the periodic payments as they fall due. Accordingly, the structured settlement is not an asset which can affect AISH entitlement.

On the other hand, with a conventional cash settlement, any earnings generated by investing the settlement are considered income by AISH. Further, unless the lump sum settlement is entirely spent in the month that it is received, it is thereafter considered an asset of the plaintiff and, subject to the exemptions, considered in determining AISH entitlement.

Simply put, a structured settlement is the only way to preserve AISH entitlement for plaintiffs who receive significant settlements.