

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.2912g Arbitration.

Sec. 2912g. (1) Subject to subsection (2), at any time after notice is given as required under section 2912b, if the total amount of damages claimed is \$75,000.00 or less, including interest and costs, all claimants and all health professionals or health facilities notified under section 2912b may agree in writing to submit the claim stated in the notice to binding arbitration. An arbitration agreement entered into under this subsection shall contain at least all of the following provisions:

- (a) A process for the selection of an arbitrator.
- (b) An agreement to apportion the costs of the arbitration.
- (c) A waiver of the right to trial.
- (d) A waiver of the right to appeal.

(2) The claimants giving notice and the health professionals or health facilities receiving notice under section 2912b may agree in writing to a total amount of damages greater than the limit set forth in subsection (1).

(3) Arbitration conducted under this section is binding as to all parties who have entered into the written agreement described in subsection (1). Arbitration under this section shall be summary in nature and shall be conducted as follows:

(a) The proceeding shall be conducted by a single arbitrator chosen by agreement of all parties to the claim.

(b) There shall be no live testimony of parties or witnesses.

(c) The Michigan general court rules pertaining to discovery are not applicable except that all of the following information shall be disclosed and exchanged between the parties upon written request of a party:

(i) All relevant medical records or medical authorizations sufficient to enable the procurement of all relevant medical records.

(ii) An expert witness report or statement, but only if the party procuring the expert witness report or statement intends to or does furnish the expert witness report or statement to the arbitrator for consideration.

(iii) Relevant published works, medical texts, and scientific and medical literature.

(iv) A concise written summary prepared by a party or the party's representative setting forth that party's factual and legal position on the damages claimed.

(v) Other information considered by the party making the request to be relevant to the claim or a defense to the claim.

(d) The arbitrator shall conduct 1 or more prehearing telephone conference calls or meetings with the parties or, if a party is represented by an attorney, the party's attorney, for the purpose of establishing the orderly request for and exchange of information described in this subsection, and any other advance disclosure of information considered reasonable and necessary in the arbitrator's sole discretion. The arbitrator shall set deadlines for the exchange or advance disclosure of information under this subsection including, but not limited to, the concise written summary required under subdivision (c)(iv).

(e) The arbitrator may issue his or her decision without holding a formal hearing based solely upon his or her review of the materials furnished by the parties under this section. In his or her sole discretion and whether or not requested to do so by a party, the arbitrator may hold a hearing. A hearing held under this subdivision is limited solely to the presentation of oral arguments, subject to time limitations set by the arbitrator.

(f) A written agreement to submit the claim to binding arbitration under this section is binding on each party signing the agreement and on their representatives, insurers, and heirs. An arbitration agreement under this section signed on behalf of a minor or a person who is otherwise incompetent is enforceable and is not subject to disaffirmance or disavowal, if the minor or incompetent person was represented by an attorney at the time the written agreement was executed.

(g) The arbitrator shall issue a written decision that states at a minimum the factual basis for the decision and the dollar amount of the award. The arbitrator shall not include costs, interest, or attorney fees in an award. A party may submit an award by an arbitrator under this section to a court of competent jurisdiction for entry of judgment on and enforcement of the award.

(4) An arbitration award under this section is not subject to appeal.

History: Add. 1993, Act 78, Eff. Apr. 1, 1994.