

30.06 Measure of Damages--Medical Expense--Past and Future--Adult Plaintiff, Emancipated Minor, or Minor Whose Parent Has Assigned Claim to Minor

The reasonable expense of necessary medical care, treatment, and services received [and the present cash value of the reasonable expenses of medical care, treatment and services reasonably certain to be received in the future].

Notes on Use

This element is to be inserted between the two paragraphs of IPI 30.01 when the evidence justifies its use. To warrant inclusion of the bracketed material relating to future medical expenses, there must be evidence that such expenses are reasonably certain to be incurred.

If the plaintiff is a minor or minor's representative and the right to recover these expenses during minority has not been assigned to the minor, use IPI 30.08.

Comment

The reasonable expense of necessary medical care is an element of damages. *Donk Bros. Coal & Coke Co. v. Thil*, 228 Ill. 233, 241; 81 N.E. 857, 860 (1907).

In actions for damages arising out of an injury to an unemancipated minor, the items of damage listed in this element are recoverable by the parents. *Reimers v. Honda Motor Co.*, 150 Ill.App.3d 840, 502 N.E.2d 428, 429-430; 104 Ill.Dec. 165, 166-167 (1st Dist.1986); *Curtis v. County of Cook*, 109 Ill.App.3d 400, 440 N.E.2d 942, 947; 65 Ill.Dec. 87, 92 (1st Dist.1982), *judgment aff'd in part, rev'd in part, on other grounds*, 98 Ill.2d 158, 456 N.E.2d 116, 74 Ill.Dec. 614 (1983). However, the usual practice in Illinois is to sue for those damages in the minor's action. This is accomplished by alleging an assignment, or waiver or relinquishment by the parents of their right to recover these damages. *Curtis v. Lowe*, 338 Ill.App. 463, 87 N.E.2d 865 (2d Dist.1949).

A derivative action for medical expenses arising under § 15 of the Husband and Wife Act (750 ILCS 65/15) tolls during the child's infancy and must be filed within two years of the child reaching eighteen years of age. 735 ILCS 5/13-203, 5/13-211.

An individual is not entitled to recover for the value of free hospital, nursing and medical services that he has obtained without expense, obligation, or liability. *Peterson v. Lou Bachrodt Chevrolet*, 76 Ill.2d 353, 392 N.E.2d 1, 5; 29 Ill.Dec. 444, 448 (1979).

On the issue of present cash value, *see* the 34.00 series.