

Possible Spousal Maintenance Outcomes

There are generally three options for resolution in a spousal maintenance case. Maintenance will be **denied, awarded** or **reserved**.

If maintenance is awarded, it will either be **permanent or temporary**. Doubts as to maintenance awards must be resolved in favor of permanency. However, permanent maintenance must be justified by exceptional circumstances, as in the case of dissolution of a long term traditional marriage in which there is an older, dependent spouse who has little likelihood of achieving self-sufficiency because of the absence from the labor market for a long period of time. Poor health is also a proper reason for awarding permanent spousal maintenance.

Permanent maintenance is modifiable unless the parties expressly preclude or limit modification by agreement and divest the court of continuing jurisdiction to modify maintenance. Any agreement must be supported by full disclosure of each party's financial circumstances, must be supported by consideration, must be fair and equitable given the circumstances and must be made part of the judgment and decree.

Temporary maintenance is awarded for a fixed period of time. The idea behind temporary maintenance is to give the party awarded maintenance time to become self-sufficient. A party awarded temporary maintenance may request and may be granted an extension depending on the circumstances. However, once temporary maintenance is awarded the recipient generally has a duty to rehabilitate.

Both temporary and permanent maintenance are generally awarded only until such time as the party receiving maintenance remarries or one of the parties dies. For maintenance to continue beyond remarriage there must be affirmative language in the decree extending the term.

The *Passolt* case from 2011 suggested that **step down reductions** in payment amounts may be appropriate to provide employment incentives for a rehabilitating spouse.

The *Powell* case states that the decision does in some sense implicitly require a person seeking spousal maintenance to become employed. It goes so far as to suggest that spousal maintenance should only awarded if the individual seeking support cannot provide for herself "through appropriate employment" or if there is a child whose condition or circumstances make it appropriate for that parent not to be required to seek employment outside the home.