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NFL agrees to remove cap on concussion damages

By BARRY WILNER



(AP Photo/Pablo Martinez Monsivais, File)

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(AP) -- A revised concussions settlement between the NFL and former players could shrink the league's coffers. Only marginally, though, and not for a long time.

The NFL agreed Wednesday to remove a \$675 million cap on damages from thousands of concussion-related claims. A federal judge who originally questioned whether there would be enough money to cover as many as 20,000 retired players still must approve the new terms.

The settlement is designed to last at least 65 years and cover retired players who develop Lou Gehrig's disease, dementia or other neurological problems believed to be caused by concussions sustained during their careers. Removing the cap might lead to the NFL paying out more money to ailing former players, even though the league and lawyers for the plaintiffs believe the \$675 million won't be surpassed.

"If exceeding that number happens, it is well down the road," said Marc Ganis, president of Chicago-based consulting firm SportsCorp and a close observer of league business. "I don't foresee anything in the next four or five years.

"This has the benefit of getting money to the families and people who need it now. If the actuarials are wrong, the additional money would not be paid for a while down the road. By then, there will be new TV contracts, the league will have grown more (financially)."

Although the original settlement was trumpeted by both sides, U.S. District Judge Anita Brody denied preliminary approval last January. Her concerns centered, simply, on whether there was enough money in the pot to satisfy all the legitimate claims; some 4,500 retired players were part of the lawsuit. Projections indicate many more will need help.

Dozens of ex-players also have said they would not take part in the original settlement, against the advice of the plaintiffs' attorneys.

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"Some of the players were concerned and asking questions about whether they could be in a deal if they weren't sure there'd be money there for them 40 years from now if they get sick, God forbid. ... That's what drove these changes," plaintiffs' lawyer Christopher Seeger said.

The original settlement included \$675 million for compensatory claims for players with neurological symptoms; \$75 million for baseline testing; and \$10 million for medical research and education. The NFL also would pay an additional \$112 million to the players' lawyers, for a total payout of more than \$870 million.

The revised settlement eliminates the cap on overall damage claims, but retains a payout formula for individual retirees that considers their age and illness. A young retiree with amyotrophic lateral sclerosis, or Lou Gehrig's disease, would receive \$5 million. A 50-year-old with Alzheimer's disease would get \$1.6 million. An 80-year-old with early dementia would get \$25,000.

Where will the money come from? The NFL isn't exactly hurting for income as it approaches \$10 billion in annual revenues.

"This comes out of their bottom line, although it is not a huge part of their bottom line," said David Orentlicher, a law professor at Indiana University's Robert H. McKinney School of Law. "But anytime a business' prices and costs increase, they try to pass off as much as they can. If they can pass it all off, they will. Sometimes you have to eat some of it.

"The questions become, have they already maxed their prices for tickets and broadcast rights and sponsorships and the like?"

With new TV deals upcoming and the surging popularity of pro football, it seems unlikely the NFL has maxed out its earning potential.

Critics of the deal have said the league is getting off lightly. Others point out, as did Ganis, that the timing of getting payments to the injured or ill is the most crucial element.

One of the plaintiffs is Kevin Turner, who played for the Philadelphia Eagles and New England Patriots and is now battling ALS.

"The compensation provided in this settlement will lift a heavy burden off of the men who are suffering," he said in a statement. "I am also personally comforted by the knowledge that this settlement is guaranteed to be there for any retired player who needs it."

Orentlicher projects the NFL will surpass the payouts of the original settlement agreement.

"It would be very surprising if their ultimate payoff is not significantly greater," Orentlicher said. "I think they will spend more money as a result of this. It's just the nature of these kinds of settlements."

"If this is all the NFL has to pay, the owners will be very happy. When you add up all the damage these players are suffering and all the money teams have earned as a result, this isn't sufficient to compensate for the harm."

Associated Press Writer Michael Rubinkam contributed to this story.

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