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Our No-Fault Service Provider Spotlight



Life Skills Village
West Bloomfield, Michigan
Ph: 248-788-4300 www.LifeSkillsVillage.com

This month we spotlight Life Skills Village (LSV), a community reintegration and rehabilitation program for traumatic brain injury survivors. Medical Director and CEO of LSV, Dr. Bryan Weinstein, has been serving the TBI community for over 16 years. LSV is the culmination of the vision he had in helping his clients reclaim independence and re-engineer a fulfilling lifestyle.

Owned and operated by clinicians, LSV is a transdisciplinary team that helps reconnect clients to life. LSV is goal oriented and problem focused, building individualized programs for each client that concentrates on personal growth and behavioral change. Its program works in the areas of living, social, education, and vocation. Evidence based therapies, in the context of experiential learning, are utilized in simulated and community based environments to foster true functional independence.

In order to bring about growing functional change, interventions are person focused at LSV, rather than discipline oriented. Its program is designed so that clients and their families may learn transferable coping skills that allow them to continue growth towards independence in their own homes and real-world environments

LSV accepts medically stable clients at every state of rehabilitation, including: sub-acute, post-acute, long term care, and post-acute long term care. Its program is ecologically based and simply relevant. Skills re-acquired in the simulated village are transferred into the community with continued support of the clinical team.



Dr. Bryan Weinstein,
Medical Director & CEO of
Life Skills Village

January 2013

Special points of interest:

- Can the driver of an uninsured motor vehicle sue the other driver for non-economic damages if the other driver intentionally injured her?
- Is transportation to a non-medical related location considered a replacement service or an allowable expense?
- The Truth Behind Independent Medical Examination Doctors

Inside this issue:

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The Michigan No-Fault Newsletter

Transportation to Non-Medical Related Locations is a Replacement Service and Not an Allowable Expense

In *ZCD Transportation v. State Farm*, an unpublished opinion of the Court of Appeals decided on November 27, 2012 (Docket No. 304719), the Court of Appeals affirmed in part and reversed in part a trial court's order granting summary judgment to Defendant regarding transportation services provided by Plaintiff to Arnold Grinblatt.

Arnold Grinblatt was injured in an automobile accident in 2001. He was disabled prior to the accident and got around using an Amigo personal mobility device and was able to drive a specially fitted van. After the accident, Grinblatt was unable to use the Amigo or drive his van so he hired Plaintiff to provide transportation.

ZCD provided transportation for medical appointments and for personal trips unrelated to medical treatment. Plaintiff's fee for the service consisted of three components: (1) a pick-up fee of \$35 to come and get the client, (2) a wait-fee of \$30 an hour, billed in 15 minute increments if the driver had to wait for the client, and (3) mileage. Plaintiff charged \$3 a mile, but every client was charged a minimum of 10 miles for a one-way trip and 20 miles for a round trip, regardless of the number of miles actually driven. Plaintiff acknowledged that a majority of Grinblatt's trips involved distances less than the mileage minimum.

An insurer must pay personal protection benefits "for accidental bodily injury arising out of the ownership, operation, maintenance or use of a motor vehicle as a motor vehicle[.]" MCL 500.3105(1).

Those benefits include:

(a) Allowable expenses consisting of all reasonable charges incurred for reasonably necessary products, services and accommodations for an injured person's care, recovery, or rehabilitation. .

(c) Expenses not exceeding \$20.00 per day, reasonably incurred in obtaining ordinary and necessary services in lieu of those that, if he or she had not been injured, an injured person would have performed during the first 3 years after the date of the accident, not for income but for the benefit of himself or herself or of his or her dependent. [MCL 500.3107(1)].

The Court of Appeals held that "the product, service, or accommodation claimed as an allowable expense must be related to the insured's injuries."

The Court of Appeals stated that "Allowable expenses and replacement expenses are two 'separate and distinct categories' of benefits. 'Services that were required both before and after the injury, but after the injury can no longer be provided by the injured person himself or herself because of the injury, are replacement services, not allowable expenses.' That is because while the services 'might be necessitated by the injury if the injured person otherwise would have performed them himself, they are not for his care ...'", citing *Johnson v. Recca*, 492 Mich. 169 (2012) and *Douglas v. Allstate Ins. Co.*, 492 Mich. 241 (2012).

The Court of Appeals explained that transportation services that were not directly related to medical treatment, but were solely to maintain Grinblatt's pre-injury quality of life constituted replacement services, and not allowable expenses. The Court of Appeals held that "transportation expenses unrelated to medical treatment are not recoverable [as an allowable expense] even if prescribed by a doctor as being necessary for the patient's care, recovery, and rehabilitation."

See MEDICAL MILEAGE, page 2



Michigan Attorney Robert J. Lantzy

Michigan accident attorney

Robert J. Lantzy has devoted his career to representing individuals who have suffered serious injuries in car, truck, bicycle, motorcycle, pedestrian, and all other types of personal injury accidents. He is recognized as an experienced trial attorney throughout the State of Michigan and is a member of the Michigan Association for Justice. Robert has an undergraduate degree from Central Michigan University and a law degree from the Detroit College of Law.

MEDICAL MILEAGE, cont. from Page 1

Mileage to and from medical appointments, however, is an allowable expense. The Court opined that charges for pick up and wait time were certainly incurred, and because neither party addressed it, the reasonableness of the charges remained a question of fact to be determined by the trial court. Finally, the Court explained that any charges for mileage beyond what Grinblatt actually traveled were not compensable because the services were not actually rendered. The Court remanded the case back to the trial court for further proceedings consistent with its opinion.

Bottom Line

- Mileage for medical appointments is reimbursable, but charges for miles not actually travelled by the injured party are not.
- Transportation to non-medical related locations is a replacement service and not an allowable expense.
- Charges for pick up and wait time by a transportation company should be reviewed for reasonableness.

Plaintiff May Still Recover Non-Economic Damages for Intentional Acts of Defendant, Even Though She Did Not Have Auto Insurance at the Time of the Accident

In *Gray v. Chrostowski*, _____ Mich. App. _____ (2006), the Court of Appeals reversed the trial court’s decision granting partial summary judgment to Defendant because the trial court wrongly concluded that Plaintiff’s claim was barred from suing for her non-economic damages under MCL 500.3135(2)(c).

Plaintiff, Lindsey Gray, filed this lawsuit seeking to recover non-economic damages arising from an alleged incident of road rage. Plaintiff alleged that Defendant tailgated her, then drove parallel to her while glaring at her, and then intentionally turned into her vehicle’s path and purposely caused a collision between the vehicles.

Plaintiff admitted in her response to interrogatories that her vehicle was uninsured at the time of the accident. Defendant moved for partial summary judgment claiming that because Plaintiff’s vehicle was uninsured, she was barred from making a claim for non-economic damages. The trial court granted defendant’s motion and dismissed the lawsuit.

MCL 500.3135(2)(c) typically bars an individual from recovering in tort if the person was operating his or her motor vehicle without insurance at the time of the accident. However, the Court of Appeals opined that “the statutory language in § 3135(2) clearly indicates that the uninsured motorist restriction set forth in subsection (2)(c) is exclusive to actions that arise under § 3135(1).” This restriction, then, has no bearing on a cause of action to recover for intentionally caused harm.

Further, “the language in § 3135(3) indicates that the uninsured motorist restriction in § 3135(2)(c) is inapplicable in instances where a plaintiff files a claim to recover damages arising from an intentionally-caused harm.” The Court of Appeals held that the no-fault act’s grant of immunity does not extend to tort liability arising from a defendant’s intentional conduct.

The Court of Appeals reversed the trial court’s decision and reinstated the case.

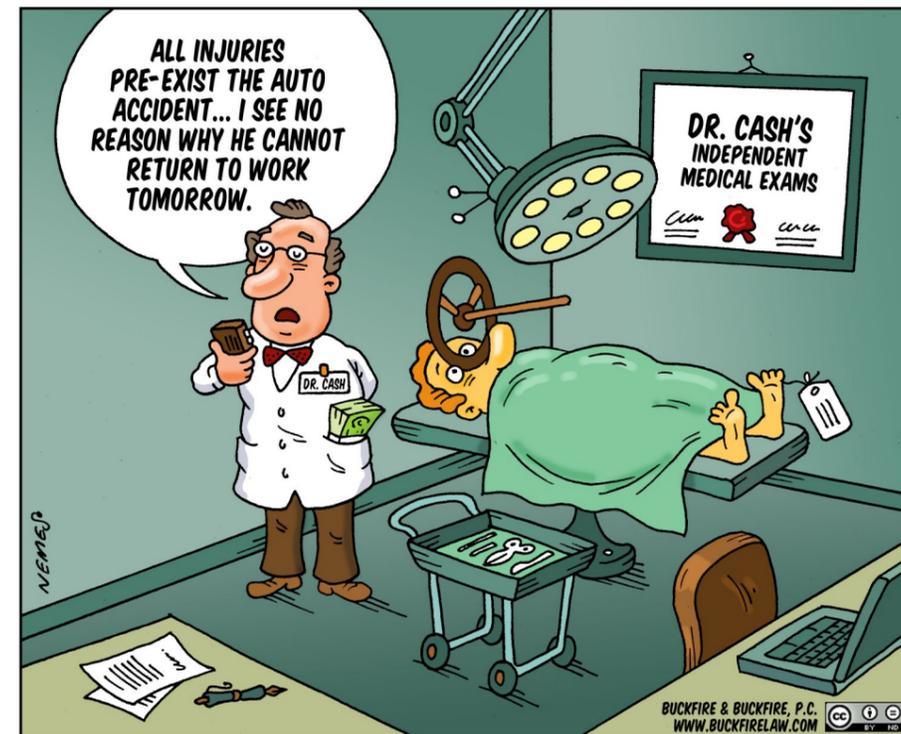
Bottom Line

- A driver of his or her own uninsured motor vehicle is allowed to sue the other driver for non-economic damages if the other driver intentionally injured him or her, and is not barred from doing so by MCL § 500.3135(2)(c).

The Truth Behind Independent Medical Examination Doctors

At Buckfire & Buckfire, P.C., we represent many injury victims in all types of accident and injury cases. Often times, our clients will be required by their insurance company to attend an independent medical examination. We have grown accustomed to some ridiculous and outrageous opinions of doctors hired to perform these “independent medical examinations.”

These highly paid doctors are “hired guns” for the insurance companies whose main goal is to often recommend termination or reduction of important benefits. To visually depict the simple truth behind independent medical examination doctors, our firm has created a comic as a satire (shown below). We hope it will make you smile!



TYPICAL OPINION FROM INSURANCE COMPANY DOCTOR

This comic was not only designed to visually depict the truth behind insurance company doctors, but also so that others will fully understand what awaits them in the unfortunate event of an injury accident or an insurance claim. Visit <http://bit.ly/IMETruth> to view the comic “Typical Opinion From Insurance Company Doctor.”

You can also share this comic with others by embedding the illustration on your own website, blogging about it, emailing or sharing this link (<http://bit.ly/IMETruth>) on your Facebook, Twitter, Google+, or any other type of social media. Embed code can be found by visiting that link, as well as all of the appropriate social media buttons.

Feel free to repin the comic illustration from the Buckfire & Buckfire, P.C. Lawyer Humor Board on Pinterest at <http://pinterest.com/buckfirelaw> as well.



Michigan's No-Fault Social Network

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<http://nofaultnetwork.com>

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