



## Court of Appeals Limits No-Fault Insurers' Liability for Homecare Expenses

Laura J. Garlinghouse

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In a published decision issued December 11, 2008, the Michigan Court of Appeals narrowed the range of homecare living expenses recoverable after a motor vehicle accident. *Hoover v Mich Mut Ins Co*, No. 278237.

In 1985, plaintiffs' then two-year-old son suffered disabling injuries for which defendant paid PIP benefits, including homecare and living expenses and part of the cost of a specially-designed home. Plaintiffs sought additional PIP benefits for expenses associated with the home, including property taxes, higher utilities, homeowners' insurance, security system costs, and maintenance, plus interest and attorney fees because defendant did not pay within 30 days.

Citing Michigan Supreme Court precedent, the *Hoover* Court held that the expenses were recoverable only to the extent that they would not have been incurred but for the son's injuries. For example, the Court expressly rejected the trial court's determination that expenses for utilities should be apportioned based on the percentage of the home that was used by the son, and held instead that utility bills are an allowable expense only to the extent that extra electricity is needed to, among other things, power the son's medical equipment. The Court remanded to the trial court to determine how much of each expense was thus connected to the son's injury and to recalculate interest and attorney fees in light of the new findings.

This case suggests that the scope of allowable homecare expenses might be narrowing. It is not known whether there will be an Application for Leave to Appeal to the Michigan Supreme Court.

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### **AUTHORS/ CONTRIBUTORS**

Laura J. Genovich

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