

N.C.P.I.-Motor Vehicle 106.04
PERSONAL INJURY DAMAGES - MEDICAL EXPENSES.
MOTOR VEHICLE VOLUME
JUNE 2013

106.04 PERSONAL INJURY DAMAGES - MEDICAL EXPENSES.¹

(Use for claims arising before 1 October 2011. For claims arising on or after 1 October 2011, use N.C.P.I.-Civil 810.04A; 810.04B; 810.04C; 810.04D.²)

Medical expenses include all [hospital] [doctor] [drug] [state other expenses] bills reasonably [incurred³] [to be incurred in the future⁴] by the plaintiff as a proximate result of the negligence of the defendant.

1. The evidence may be such as to require elaboration of this instruction in one or more of the following respects:

The treatment need not be successful to make the expense recoverable. See generally *Heath v. Kirkman*, 240 N.C. 303, 310, 82 S.E.2d 104, 109 (1954).

Additional medical expenses caused by the negligence of the original treating physician are recoverable, unless the injured person was negligent in selecting the original physician. See *Bryant v. Dougherty*, 267 N.C. 545, 549-50, 148 S.E.2d 548, 55 (1966); *Bost v. Metcalfe*, 291 N.C. 605, 609, 14 S.E.2d 648, 651 (1941).

The medical expenses of an unemancipated minor are not recoverable by the minor. See *Emanuel v. Clewis*, 272 N.C. 505, 509, 158 S.E.2d 587, 590 (1968).

2. See 2011 N.C. Sess. Laws 317 § 1.1 (modifying 2011 N.C. Sess. Laws 283 § 4.2).

3. The cases speak of "actual" expenses. See *Taylor v. Boger*, 289 N.C. 560, 570, 223 S.E.2d 350, 356 (1976); *Williams v. Charles Stores Co.*, 209 N.C. 591, 601, 184 S.E.2d 496, 502 (1936). If the expense has been incurred, there need not be evidence of actual payment. See *Williams*, 209 N.C. at 601-02, 184 S.E.2d at 502 (1936). Further, the fact that medical expenses were paid by the plaintiff's employer, his medical insurer, or some other collateral source generally does not deprive the plaintiff of the right to recover them. *Cates v. Wilson*, 321 N.C. 1, 5, 361 S.E.2d 734, 737 (1987); *Fisher v. Thompson*, 50 N.C. App. 724, 731, 275 S.E.2d 507, 513 (1981).

4. If there is evidence of future medical expenses, whether temporary or permanent, give N.C.P.I.-Civil [810.16](#) ("Personal Injury Damages-Future worth in Present Value"). In addition, if there is evidence that the medical expenses will be permanent, give N.C.P.I. -Civil [810.14](#) ("Personal Injury Damages-Permanent Injury"). See also *Taylor*, 289 N.C. at 570, 223 S.E.2d at 351 (noting that future actual expenses must be reasonable).