

106.44 WRONGFUL DEATH DAMAGES - MEDICAL EXPENSES.

(Use for claims arising before 1 October 2011. For claims arising on or after 1 October 2011, use N.C.P.I.- Civil 810.44A; 810.44B; 810.44C; 810.44D.¹)

Expenses for care, treatment and hospitalization include all [hospital] [doctor] [drug] [state other] expenses reasonably paid² or incurred³ by (*name deceased*) as a [proximate result of the negligence] [result of the wrongful conduct] of the defendant.

(The parties have agreed and stipulated that (*name deceased's*) reasonable medical expenses were (*state amount*)).

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

2. The cases speak of "actual" expenses. See *Taylor v. Boger*, 289 N.C. 560, 570, 223 S.E.2d 850, 356 (1976); *Williams v. Charles Stores Co.*, 209 N.C. 591, 601, 184 S.E.2d 496, 502 (1936). Where there is an issue as to the reasonableness of the medical expenses, the jury should also be instructed:

As to the reasonableness of the expenses, the plaintiff has the burden of proof by the greater weight of the evidence. However, where the plaintiff has testified regarding the amount of such expenses and has provided records or copies of such charges, you may find from this evidence alone that the charges are reasonable, but you are not compelled to do so.

See N.C. Gen. Stat. §§ 8-58.1 and Rule of Evidence 301.

3. 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. 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).