

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

 106.04 PERSONAL INJURY DAMAGES—MEDICAL EXPENSES¹

(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-D.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).

