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When Opting for Reduced PIP Coverage, the Duty to Mitigate Damages Remains but the Fee Schedules Do Not Apply

By Anne M. Miller **August 18, 2026**

On July 27, 2026, the Michigan Supreme Court, in *Canty v Mason*, partially affirmed the decision of the Court of Appeals in *Canty v Mason*, ___ Mich App ___; ___ NW3d ___ (October 4, 2024) (Docket No. 365327), in holding that a plaintiff has a duty to mitigate damages to minimize his economic harm, including seeking healthcare coverage from providers when he has elected either not to maintain or to maintain reduced PIP coverage under MCL 500.3107c and § 3107d due to maintaining no-fault insurance and a qualified health plan. This duty includes seeking payment of medical bills from the qualified health insurance, or Medicare, for "reasonable charges incurred for reasonably necessary products, services, and accommodations for an injured person's care, recovery, or rehabilitation." *Canty*, ___ Mich ___, ___; ___ NW3d ___ (2026) (Docket No. 167772) slip op. at 7-8 (citing MCL § 500.3107(1)(a)). However, the Supreme Court reversed the Court of Appeals in part holding that "a plain-language reading of MCL § 500.3135(3)(c) does not contemplate adoption of the reimbursement limitations set forth in MCL § 500.3157" as to whether the limitations of MCL § 500.3157 apply to a tort action rather than one for PIP benefits. *Canty*, slip op at 10-12.

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The duty to mitigate damages is a longstanding one that goes back to the common law. Here, the Michigan Supreme Court merely extended that duty to those who bring their claim in tort rather than no-fault after opting out of PIP benefits due to qualified health insurance coverage. However, the Supreme Court declined to extend the fee schedule limitations of MCL § 500.3157 to third-party claims brought in tort.

This ruling is important because, as more and more individuals forego PIP benefits due to qualified insurance coverage to save on costs, more claims may wind up being brought in tort where the application of the no-fault statutes either apply differently or not at all, resulting in unforeseen liability exposure to insurers for damages. As regarding PIP benefits, the Supreme Court was clear here that the no-fault statutes are intended to define the scope of PIP benefits, not claims for damages in tort under MCL § 500.3135(3)(c).

In this case, Plaintiff asserted that he was injured in an automobile crash caused by Defendant in February 2021. Though Plaintiff had no-fault insurance, he waived PIP coverage under MCL 500.3107d because he had "qualified health coverage" under Parts A and B of Medicare. As such, Plaintiff sought to recover "allowable expenses" for medical treatment under MCL 500.3135(3)(c) in tort rather than through no-fault. *Canty*, slip op at 4. In response, Defendant moved for partial summary disposition. Though many of Plaintiff's providers accepted Medicare, none of them billed Medicare for Plaintiff's treatment, nor did they charge Medicare rates. *Id.*, slip op at 5. Further, Plaintiff never submitted any of the bills for reimbursement from Medicare; rather, Plaintiff claimed "the full amount billed as damages in his suit." *Id.* Defendant argued "that Plaintiff had a duty to mitigate his damages by using his Medicare coverage and that any recovery should be subject to the reimbursement limitations added to MCL § 500.3157" by the 2019 no-fault amendments. *Id.* The trial court denied summary disposition and Defendant appealed. In response, the Court of Appeals "granted interlocutory review and issued a split, published opinion holding that plaintiff had a duty to mitigate damages and that the MCL § 500.3157 reimbursement limitations ("fee schedules") did apply to plaintiff's claim." *Id.* Plaintiff appealed to the Michigan Supreme Court.

The Michigan Supreme Court considered Plaintiff's appeal on the issue of a duty to mitigate damages as an interpretation of the phrase "without limit" as used in MCL § 500.3135(3)(c). Plaintiff's argument was that "when the phrase 'without limit' [was] given full effect, there [could] be no duty to mitigate." *Id.*, slip op at 7. In contrast, Defendant argued that '"without limit' [could not] mean that there are no limits on plaintiff's recovery of allowable expenses because medical charges must still be reasonable and necessary to comply with the definition of 'allowable expenses' under MCL § 500.3107(1)(a)." *Id.* In their holding, the Supreme Court agreed with Defendant's argument, concluding that "MCL § 500.3135(3)(c) allows a person who elected not to maintain PIP coverage because they maintained no-fault insurance and a qualified health plan, […] to recover '[d]amages for allowable expenses …' […], [which] 'consist[] of reasonable charges incurred for reasonably necessary products, services, and accommodations for an injured person's care, recovery, or rehabilitation.'" *Id.*, slip op at 7-8.

Specifically, said the Supreme Court, '"[d]amages for allowable expenses' must 'consist[] of reasonable charges incurred' for reasonable services. 'Without limit' does not broadly eliminate the incorporated references to MCL § 500.3107(1)(a), which requires allowable expenses to be reasonable and necessary.'" *Id.*, slip op at 8. Furthermore, because "statutes are to be construed in accordance with the common law unless the Legislature speaks in no uncertain terms as to its intent to abrogate," "the mitigation-of-damages doctrine applies to plaintiff's tort claim under MCL § 500.3135(3)(c)." *Id.* However, "a plain-language reading of MCL § 500.3135(3)(c) does not contemplate adoption of the fee schedule limitations set forth in MCL § 500.3157;" thus, "[t]he plain language of […] the no-fault act highlights that the Legislature did not intend for the reimbursement limitations in MCL § 500.3157 to apply to a claim for tort damages brought under MCL § 500.3135(3)(c)." *Id.*, slip op at 11-12.

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Motor Vehicle Litigation Practice Group Chairs
Anthony A. Randazzo | arandazzo@secrestwardle.com or 248-539-2812
Matthew J. Consolo | mconsolo@secrestwardle.com or 248-539-2822

For questions pertaining to this article

Anne M. Miller | amiller@secrestwardle.com or 616-272-7966

Website LinkedIn Twitter YouTube Email

SECREST SW WARDLE

Troy | 248-851-9500
Grand Rapids | 616-285-0143
www.secrestwardle.com

Contributors

Motor Vehicle Litigation Practice Group

Chairs

Anthony A. Randazzo
Matthew J. Consolo

Editors

Sandie Vertel
Sue Willcock