

C. PIP Benefit #3: Replacement Service Expense Benefits

Under the No-Fault Statute, an injured person may also receive reimbursement, in an amount not to exceed \$20 per day, for expenses incurred in having others perform reasonably necessary services that the injured person would have performed for non-income producing purposes. This benefit is payable for the first three (3) years following an accident. These benefits are defined in Section 3107(1)(c) as expenses ***“reasonably incurred in obtaining ordinary and necessary services in lieu of those that, if he or she had not been injured, an injured person would have performed during the first 3 years after the date of the accident, not for income but for the benefit of himself or herself or of his or her dependent.”*** Some important principles regarding these replacement service expense benefits are summarized below:

1. Nature of the Benefit — Replacement service expenses are typically domestic related. They include things such as housekeeping, yard work, laundry, home maintenance, babysitting, etc. As with attendant care, replacement services may be rendered by relatives as long as the service is something the injured person used to do, is reasonably necessary and the amount charged is reasonable. The statute prohibits payment of replacement services for income producing activities. Therefore, self-employed persons cannot hire substitute workers and obtain reimbursement for that expense under this particular benefit. Furthermore, the \$20 per day maximum benefit is not cumulative and thus, if it is not used in one particular day, it is lost. It is not necessary that an injured person actually pay cash for the service as long as he or she has *“incurred”* the expense in the sense of becoming obligated to pay the service provider. It is very important to keep careful records with regard to replacement service claims. These claims should be documented by signed receipts from the person who rendered the service, explaining what was done, when it was done and the charge incurred. Oftentimes, a doctor’s statement confirming the need for the service is necessary.

2. An Important Distinction: Attendant Care Services v Replacement Services — There is a *“gray area”* with regard to certain kinds of personal care services rendered to an injured person in his or her home. If the service is related to the injured person’s *“care, recovery or rehabilitation,”* it is an *“allowable expense”* payable under §3107(1)(a). If the service is not related to personal care, recovery or rehabilitation but is more in the nature of a domestic service, it is probably a *“replacement service expense”* payable under §3107(1)(c). The distinction is crucial as *“replacement services”* are limited to \$20 per day and terminate three (3) years from the date of the accident, whereas *“allowable expense services”* are unlimited in amount and are payable for life. Therefore, those service providers rendering care to an injured person in the person’s home must be careful to separate the two (2) types of service claims so as to avoid the application of the \$20 per day/three (3) year limitations in situations where the claim is properly payable as an allowable expense benefit. Sometimes insurance

companies blur this distinction, resulting in inadequate reimbursement to accident victims.