

Insured Injured Out-Of-State Pedestrian Not Entitled to PIP Benefits From her own Insurer

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An out-of-state pedestrian injured in a motor vehicle accident in Michigan is not entitled to no-fault benefits from the pedestrian's own no-fault insurer.

In *Home Owners Ins Co v Allstate Ins Co*, Docket No. 321638, 2015 WL 5440236 (Mich. Ct. App. Sept. 15, 2015), an out-of-state pedestrian was injured when she was hit by a car while attempting to walk across a road. A dispute arose regarding which of several insurers had priority for payment of her first-party Personal Protection Insurance (PIP) benefits. However, the Michigan Court of Appeals held that, under MCL 500.3163, she was not entitled to PIP benefits because her injuries did not arise from the ownership, operation, maintenance or use of a motor vehicle as a motor vehicle by an out-of-state-resident.

The appellate court analyzed the issue by first reviewing MCL 500.3163(1). The statute provides that an automobile insurer authorized to conduct business in Michigan is required to file a certification providing that the insurer will provide coverage for any accidental bodily injury or property damage occurring in Michigan arising from its out-of-state's insured's ownership, operation, maintenance, or use of a motor vehicle. When that certification is filed, and if the vehicle is involved in an accident in Michigan, then the out-of-state policy automatically converts to a Michigan no-fault policy, and any accidental bodily injury or property damage is subject to the provisions of Michigan's No-Fault Act.

The appellate court then analyzed MCL 500.3163(4). The statute provides that if an insurer of an out-of-state resident is required to provide benefits to that insured under MCL 500.3163(1) for accidental bodily injury in which the insured was not an occupant of a motor vehicle registered in Michigan, then the insurer's liability for damages is capped at \$500,000.

MCL 500.3163(4) has previously been interpreted to provide that an out-of-state insured, injured as a pedestrian or a motorcyclist as a result of an accident involving a motor vehicle, is entitled to PIP benefits under Michigan's no-fault system.

INSURED INJURED OUT-OF-STATE PEDESTRIAN NOT ENTITLED TO PIP BENEFITS FROM HER OWN INSURER Cont.

However, under the ruling in *Home Owners*, an out-of-state pedestrian or motorcyclist is not entitled to benefits under MCL 500.3163, because any damages sustained would not have arisen “from the ownership, operation, maintenance, or use of a motor vehicle as a motor vehicle by an out-of-state-resident.”

In summary, MCL 500.3163(1) operates to provide coverage if the out-of-state resident is injured as a result of that person’s ownership, operation, maintenance, or use of a motor vehicle as a motor vehicle. And under the holding in *Home Owners*, if MCL 500.3163(1) applies, that is

- If the out-of-state resident was injured as a result of that person’s ownership, operation, maintenance or use of a motor vehicle as a motor vehicle, and
- If the accident occurred when that person was not an occupant of a motor vehicle registered in Michigan,

Only then would MCL 500.3163(4) apply to provide coverage for PIP benefits, up to a maximum of \$500,000.

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