

Medical Bills in Car Crash Cases

UT CLE Car Crash Seminar
August 16, 2024
Austin, Texas



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Overview

- The 101 on 18.001
- Does 18.001 apply in federal court?
- *In re Allstate* (Tex. 2021) and 18.001
- Up next: the partially-controverted 18.001 affidavit
- Don't forget causation
- *In re K&L Auto* discovery

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18.001 & Paid vs. Incurred Background

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Recovery of medical expenses in car crash cases is limited to:

- Amounts actually paid or incurred,
- that are reasonable, and
- necessary

Tex. Civ. Prac. & Rem. Code § 41.0105

In re Allstate Indemnity Co., 622 S.W.3d 870, 876 (Tex. 2021) (orig. proceeding)

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Before 18.001

- Plaintiff always had to present expert testimony to establish reasonableness and necessity of their medical expenses
 - Live at trial
 - Via deposition

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After 18.001

- Procedural statute:
 - Provides for the use of affidavits to streamline proof of reasonableness & necessity of medical expenses
 - *Gunn v. McCoy*, 554 S.W.3d 645, 672 (Tex. '18).
- Evidentiary statute:
 - Allows for admissibility of evidence of reasonableness & necessity via affidavit, which would otherwise be hearsay
- Plaintiff may use affidavit to prove reasonableness & necessity without having to call expert medical providers to trial where medical expenses are uncontroverted.
 - *Rumzek v. Lucchesi*, 543 S.W.3d 327, 341 (Tex. App.—El Paso 2017, no pet.).

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First appeared as part of the conference materials for the
2024 The Car Crash Seminar session
"Medical Bills in Car Crash Cases"