

# Supreme Court: No-Fault Insureds Can Get Household-Help Benefit Even Though No One Is Ever Hired To Do The Work

A recent decision from the Minnesota Supreme Court means that certain insureds who have been injured by a motor vehicle will not have to replace household services to receive replacement service loss benefits under Minnesota's No Fault Act. In *Schroeder v. Western National Ins. Co.*, 865 N.W.2d 66 (Minn. 2015), the court held that the act allows an injured person who is the primary household manager to recover the reasonable value of those care and maintenance services, regardless of whether the services were actually replaced. Katherine McBride, an attorney with the Minneapolis law firm of Meagher & Geer, spoke on the decision at the November meeting of the Twin Cities Claims Association.

In the case, Carmen Schroeder was injured in an automobile accident and sought replacement services loss benefits from her no-fault carrier, Western National. Schroeder claimed that for the 18 weeks following her accident, she was unable to do any household chore, including: cooking, doing laundry, cleaning bathrooms, washing dishes, etc. Schroeder, though, did not have anyone step in and do these chores for her

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—either gratuitously or for a fee. Western National advised Schroeder that to receive replacement service loss benefits, she need not incur an actual expense, but she did have to replace services to be entitled to replacement service loss benefits. Schroeder disagreed and filed for arbitration.

The arbitrator sided with Schroeder and awarded her \$3,400 in replacement services loss benefits, plus interest. The district court denied Western National's motion to vacate the arbitration, and the court of appeals affirmed, setting the stage for Supreme Court review, which had never before addressed whether those services must actually be replaced.

McBride noted that the court rejected Western National's argument that the insured cannot recover replacement service loss benefits because she only suffered noneconomic loss (i.e., the inconvenience, embarrassment, and emotional distress resulting from being completely unable to clean or maintain her home during her disability) and not an economic loss, which is

a threshold requirement under the No Fault Act.

The court held that under the act, "loss" and "economic detriment" are equivalent terms "consisting only of" the six enumerated categories of loss, including "replacement services loss." McBride further noted that the court also rejected Western National's argument that not requiring an insured to replace services reads the word "replacement" out of the statute. The court rules that the plain text of the subdivision at issue does not make recovery contingent on replacing household services, if the injured person is primarily responsible for household maintenance. McBride said it is believed that Minnesota is the only state that allows an insured to recover replacement service loss benefits without incurring an expense. And now, it would seem, she pointed out, it is the only state that does not even require that those household services be replaced. ■

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