

STATE OF MICHIGAN
COURT OF APPEALS

CARRIE DAWN HOLMES,

Plaintiff-Appellee,

v

TITAN INSURANCE COMPANY,

Defendant/Cross-Defendant-
Appellant,

and

ALLSTATE INSURANCE COMPANY,

Defendant/Cross-Defendant,

and

CITIZENS INSURANCE COMPANY OF
AMERICA,

Defendant/Cross-Plaintiff/Third-Party
Plaintiff-Appellee,

v

JAMES O'NEIL DAVIS,

Third-Party Defendant.

UNPUBLISHED

July 2, 1999

No. 206626

Genesee Circuit Court

LC No. 96-050916 NF

Before: Doctoroff, P.J., and Markman and J.B. Sullivan*, JJ.

* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

PER CURIAM.

Defendant, Titan Insurance Company, appeals by leave granted an order granting summary disposition in favor of plaintiff. We reverse.

The primary issue on appeal is whether plaintiff was “domiciled,” within the contemplation of MCL 500.3114(1); MSA 24.13114(1), with her mother when she sustained injuries in an automobile accident and, therefore, whether Titan, her mother’s insurer, is the highest in priority among insurers to provide PIP benefits to plaintiff. The trial court held that plaintiff was “domiciled” with her mother and that Titan was the responsible insurer. On de novo review, we disagree. *Spiek v Dep’t of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998).

The determination of domicile is a question of fact to be resolved by the trial court, and this Court will not reverse the trial court's determination unless the evidence clearly preponderates in the opposite direction. *Goldstein v Progressive Casualty Ins Co*, 218 Mich App 105, 111; 553 NW2d 353 (1996). The Supreme Court, in *Workman v DAIIE*, 404 Mich 477, 496-97; 274 NW2d 373 (1979), has held that the following are “among the relevant factors” which should be considered in determining whether a claimant is “domiciled in the same household” as an insured: (1) the subjective or declared intent of the claimant to remain, permanently or for an indefinite or unlimited length of time, in the insured’s household; (2) the formality or informality of the relationship between the claimant and members of the insured’s household; (3) whether the place where the claimant lives is in the same house, within the same curtilage or upon the same premises as the insured; and (4) the existence or lack thereof of another place of lodging for the claimant. In *Dairyland Ins Co v Auto-Owners Ins Co*, 123 Mich App 675, 682; 333 NW2d 322 (1983), in a case involving “the particular problems posed by young people departing from the parents’ home and establishing new domiciles as part of the normal transition to adulthood and independence,” this Court held that all relevant factors must be considered in determining “domicile” for the purpose of the no-fault act. In particular, *Dairyland* held that the following were also among the relevant factors in determining whether a child is domiciled with her parents: (1) whether or not the claimant uses her parents’ home as her mailing address; (2) whether or not the claimant has possessions at her parents’ home; (3) whether or not the parents’ address is on the claimant’s driver’s license or other documents; (4) whether or not the claimant has a room at her parents’ house; and (5) whether or not the claimant is dependent on her parents for support.

In the present case, review of the facts reveals the following: (1) that plaintiff moved out of her mother’s home about two years prior to the accident and, for some time, lived on the streets; (2) plaintiff believed that she was not free to move back into her mother’s house because she did not get along with her mother and because she had been asked previously to remove herself from her mother’s home “constantly;” (3) plaintiff failed to return to her mother’s house even when she returned to the area in which her mother lived; (4) plaintiff failed to return to her mother’s house even after being confined in the hospital as a result of the accident out of which the instant case arises; (5) there is little evidence of any ongoing relationship between plaintiff and her mother; (6) plaintiff’s “belongings” which were contained in her mother’s house appear merely to have been left there when plaintiff departed the house, largely as a result of the absence of any alternative residence, rather than affirmatively having

been left there by plaintiff at some subsequent time; (7) plaintiff was not financially dependent upon her mother; and (8) perhaps most significantly, at critical moments when plaintiff was unconcerned about, or oblivious to, the insurance consequences of her domicile, i.e. when she identified where she lived to the police and hospital personnel following her accident, she did not identify her mother's house. *Dairyland Ins Co, supra* at 684. In our judgment, each of these factors militates in favor of a conclusion that plaintiff was not domiciled at her mother's house at the time of her accident.

While there are other factors which admittedly point toward such a domicile, in particular, the facts that plaintiff continued to receive some mail at her mother's house and that her mother's house was the address contained on her driver's license, the facts here are more similar to those in *Dairyland Ins Co, supra* at 684, than to *Workman, supra* at 497-98, *Goldstein, supra*, at 111-12, *Salinger v Hertz Corp*, 211 Mich App 163, 165-67; 535 NW2d 204 (1995), and *Dobson v Maki*, 184 Mich App 244, 252; 457 NW2d 132 (1990). We would be inclined to place considerably more weight upon plaintiff's unsupported assertion of her intent someday to return to her mother's house, were her circumstances more akin to those of a student or a member of the military. In our judgment, the evidence here clearly preponderates against a finding that plaintiff was "domiciled" with her mother, Titan's insured, at the time of the accident. Therefore, Titan is not responsible for providing PIP benefits to plaintiff. *Goldstein, supra* at 111.

Reversed.

/s/ Martin M. Doctoroff

/s/ Stephen J. Markman

/s/ Joseph B. Sullivan