

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

LORAINÉ C. NIEKOOP, on behalf)
and as parent and natural)
guardian of ELIJAH TURNER, a)
minor,)
)
Petitioner,)
)
vs.) Case No. 11-4402N
)
FLORIDA BIRTH-RELATED)
NEUROLOGICAL INJURY)
COMPENSATION ASSOCIATION,)
)
Respondent.)
_____)

FINAL ORDER APPROVING STIPULATION FOR ENTRY OF AWARD

This cause came on for consideration pursuant to sections 766.304 and 766.305(7), Florida Statutes, upon Petitioner's and Respondent's Stipulation and Joint Petition for Compensation of Claim Arising out of Florida Birth-Related Neurological Injury pursuant to Chapter 766, Florida Statutes (Stipulation and Joint Petition), filed with the Division of Administrative Hearings on May 21, 2012, for the entry of an order approving the resolution of a claim for compensation benefits filed in accordance with the provisions of chapter 766 and a resolution of the exclusive remedy otherwise available as outlined in chapter 766.

By the terms of their stipulation, the parties have agreed that Loraine C. Niekoop is the parent and natural legal guardian

of Elijah Turner (Elijah), a minor; that Elijah was born a live infant on or about September 18, 2008, in Miramar, Florida, at Memorial Hospital Miramar, a "hospital" as defined by section 766.302(6); and that Elijah's birth weight exceeded 2,500 grams. The parties have further agreed that Jose Rivas, M.D., delivered obstetrical services at Elijah's delivery and was a "participating physician" in the Florida Birth-Related Neurological Injury Compensation Plan, as defined by section 766.302(7). The parties have agreed that Elijah suffered a "birth-related neurological injury," as that term is defined by section 766.302(2).

After due consideration of the interests of the parties, and being otherwise fully advised in the premises, it is

ORDERED:

1. The Stipulation and Joint Petition filed May 21, 2012, is hereby approved, and the parties are directed to comply with the provisions of the Stipulation and Joint Petition.

2. Petitioner, Loraine C. Niekoop, as the parent and legal guardian of Elijah Turner, a minor, is awarded one hundred thousand dollars (\$100,000.00), pursuant to section 766.31(1)(b)1, to be paid in periodic payments to be used for a home, vehicle, or related expenses and payment of benefits up to and including the effective date of the Stipulation under section

766.31(1) (a) subject to the provisions of paragraph 19 of the Stipulation and Joint Petition.

3. NICA will reimburse Malove Henratty, P.A., attorney for Petitioner, an agreed-upon fee of \$7,725.00 and expenses of \$3,211.85, totaling \$10,936.85 in full, for services rendered in the filing of this claim.

4. NICA shall pay future expenses as incurred.

5. Upon payment of the award of \$100,000.00 and past benefits/expenses, and attorney's fees and expenses of \$10,936.85, the claim of Petitioner shall be deemed fully satisfied and extinguished, except for NICA's continuing obligation under section 766.31(2) to pay future expenses as incurred.

6. The Division of Administrative Hearings retains jurisdiction over this matter to resolve any disputes, should they arise, regarding the parties' compliance with the terms of this Order.

DONE AND ORDERED this 23rd day of May, 2012, in Tallahassee,
Leon County, Florida.

Susan Belyeu Kirklund

SUSAN BELYEU KIRKLAND
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 23rd day of May, 2012.

COPIES FURNISHED:

(Via Certified Mail)

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NOTICE OF RIGHT TO JUDICIAL REVIEW

Review of a final order of an administrative law judge shall be by appeal to the District Court of Appeal pursuant to section 766.311(1), Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing the original notice of administrative appeal with the agency clerk of the Division of Administrative Hearings within 30 days of rendition of the order to be reviewed, and a copy, accompanied by filing fees prescribed by law, with the clerk of the appropriate District Court of Appeal. See § 766.311(1), Fla. Stat., and Fla. Birth-Related Neurological Injury Comp. Ass'n v. Carreras, 598 So. 2d 299 (Fla. 1st DCA 1992).