

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

STEVEN AND THERESA HEREFORD, on  
behalf of and as parents and  
natural guardians of SAMUEL  
JOSEPH HEREFORD, a minor,

Petitioners,

vs.

Case No. 14-1000N

FLORIDA BIRTH-RELATED  
NEUROLOGICAL INJURY COMPENSATION  
ASSOCIATION,

Respondent,

and

MEMORIAL HEALTHCARE GROUP, INC.,  
d/b/a MEMORIAL HOSPITAL  
JACKSONVILLE,

Intervenor.

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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 the 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 January 30, 2017, 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, Petitioners, Steven and Theresa Hereford, as parents and natural guardians of Samuel Joseph Hereford, a minor, and Respondent, Florida Birth-Related Neurological Injury Compensation Association (NICA), have agreed that Steven and Theresa Hereford are the parents and legal guardians of Samuel Joseph Hereford (Samuel), a minor; that Samuel was born a live infant on or about May 31, 2009, at Memorial Hospital, a "hospital" as defined by section 766.302(6) located in Jacksonville, Florida; and that Samuel's birth weight exceeded 2,500 grams. The Parties have further agreed that Sonnie Kim-Ashchi, M.D., provided obstetrical services at Samuel's delivery and was a "participating physician" in the Florida Birth-Related Neurological Injury Compensation Plan, as defined by section 766.302(7). The Final Order issued on November 4, 2016, determined that Samuel suffered a "birth-related neurological injury," as that term is defined by section 766.302(2).

It is ORDERED:

1. The Stipulation and Joint Petition filed on January 30, 2017, is hereby approved, and the Parties are directed to comply with the provisions of the Stipulation and Joint Petition.

2. Petitioners, Steven and Theresa Hereford, as the parents and legal guardians of Samuel Joseph Hereford, a minor, are awarded one hundred thousand dollars (\$100,000.00), pursuant to section 766.31(1)(b)1., to be paid as a lump sum to the parents; payment of benefits up to and including the effective date of the Stipulation and Joint Petition pursuant to section 766.31(1)(a), subject to the provisions of paragraphs 16 and 19 of the Stipulation and Joint Petition; and payments of future expenses, as incurred.

3. NICA will reimburse McBreen & Nowak, attorneys for Petitioners, an agreed-upon attorney's fee of \$100,000.00 and expenses of \$15,679.25, totaling \$115,679.25 in full for services rendered in the filing of this claim.

4. Upon the payment of the award of \$100,000.00, past benefit/expenses, and \$115,679.25 for attorney's fees and costs, the claims of Petitioners shall be deemed fully satisfied and extinguished, except for Respondent's continuing obligation under section 766.31(2) to pay future expenses, as incurred, and the agreed-upon death benefit pursuant to section 766.31(1)(b)(2), upon the demise of Samuel Hereford.

5. 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 1st day of February, 2017, in  
Tallahassee, Leon County, Florida.



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BARBARA J. STAROS  
Administrative Law Judge  
Division of Administrative Hearings  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 1st day of February, 2017.

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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).