

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DANIELLE FAIVUS and SCOTT
FAIVUS, as parents and natural
guardians of the person, RYDER
FAIVUS, on behalf of DANIELLE
FAIVUS and SCOTT FAIVUS
individually and on behalf of
RYDER FAIVUS, a minor, and
REBECCA G. DOANE et al.,

Petitioners,

vs.

Case No. 16-3998N

FLORIDA BIRTH-RELATED
NEUROLOGICAL INJURY COMPENSATION
ASSOCIATION,

Respondent,

and

WELLINGTON REGIONAL MEDICAL
CENTER; MELISSA E. CARLSON,
M.D.; AND OB/GYN SPECIALISTS OF
THE PALM BEACHES, P.A.,

Intervenors.

_____ /

FINAL ORDER AWARDING NICA BENEFITS

This cause came on for consideration pursuant to the
authority set forth in sections 766.304 and 766.31, Florida
Statutes.

On July 8, 2016, Petitioners, Danielle Faivus and Scott
Faivus, as parents and natural guardians of Ryder Faivus, a
minor, filed a Petition Under Protest for Determination as to the

Applicability of Florida Birth-Related Neurological Injury Compensation Plan with the Division of Administrative Hearings (DOAH) for a determination of compensability under the Florida Birth-Related Neurological Injury Compensation Plan (Plan).

On February 6, 2017, a Partial Summary Final Order was entered in this proceeding finding that Ryder Faivus sustained a birth-related neurological injury as defined in section 766.302(2) and that the parents' claim was found and determined to be compensable under the Plan. Jurisdiction was retained to determine the issue of whether the notice requirements of section 766.316 were met, and the issue of an award pursuant to section 766.31.

On May 22, 2017, a Final Order on Notice was entered finding that Intervenors Wellington Regional Medical Center, Dr. Melissa E. Carlson, M.D., and OB/GYN Specialists of the Palm Beaches provided notice in compliance with section 766.316.

Accordingly, as all requirements of chapter 766 have been met for an award providing compensation under the Plan as contemplated by section 766.31(1), it is ORDERED:

1. Petitioners, Danielle Faivus and Scott Faivus, as the parents and natural guardians of Ryder Faivus, 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.

2. The Florida Birth-Related Neurological Injury Compensation Association (NICA) will pay all benefits, past and future, as authorized by Section 766.31, Florida Statutes. Payment of past benefits up to and including the effective date of this Order pursuant to section 766.31(1)(a), will be made provided that Petitioners provide to NICA a complete list (with copies of invoices and names and addresses of providers) of all known past expenses under section 766.31(1)(a), within 30 days of the date of this Order, or as soon as is practicable if agreed to by NICA. Petitioners shall seek prior authorization and approval from NICA for all actual future expenses incurred under section 766.31(1)(a), with the exception of emergency medical or hospital care, and shall promptly inform NICA when such emergency medical and hospital care has been obtained.

3. NICA will reimburse Nancy La Vista, Esquire, attorney for Petitioners, of the law firm of Clark Fountain La Vista Prather Keen & Littky-Rubin, an agreed-upon attorney's fee of \$10,000 and expenses of \$1,301.58, totaling \$11,301.58, in full for services rendered in the filing of this claim.

4. 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 11th day of August, 2017, in
Tallahassee, Leon County, Florida.



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 11th day of August, 2017.

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).