

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

ELIZABETH MIDLAND AND
CHRISTOPHER MIDLAND, on behalf
of and as parents and natural
guardians of JOLEE HARPER
MIDLAND, a minor,

Petitioners,

vs.

Case No. 19-0738N

FLORIDA BIRTH-RELATED
NEUROLOGICAL INJURY COMPENSATION
ASSOCIATION,

Respondent,

and

MICHAEL HENNESSEY, M.D.,

Intervenor.

_____ /

FINAL ORDER

On August 20, 2019, Petitioners and Respondent filed a Stipulation and Joint Petition for Compensation Arising Out of Florida Birth-Related Neurological Injury Pursuant to Chapter 766, Florida Statutes (Stipulation and Joint Petition). On August 21, 2019, the administrative law judge entered an Order instructing Intervenor to notify the Division of Administrative Hearings no later than August 28, 2019, whether he objected to the entry of a final order approving the Stipulation and Joint Petition. That same day, Intervenor filed

a response stating that he had no objection to the entry of a final order adopting the Stipulation and Joint Petition.

Petitioners and Respondent seek the entry of an order approving the resolution of a claim for benefits filed in accordance with the provisions of chapter 766, Florida Statutes.

FINDINGS OF FACT

Based on the stipulation of Petitioners and Respondent, the following facts are found:

1. Elizabeth Midland and Christopher Midland (Petitioners) are the parents and legal guardians of Jolee Harper Midland (Jolee), and are the "Claimants" as defined by section 766.302(3).

2. Jolee incurred a "birth-related neurological injury" as defined in section 766.302(2), on or about January 18, 2018, which was the sole and proximate cause of Jolee's current medical condition.

3. At birth, Jolee weighed 2,850 grams.

4. Stephanie Caywood, M.D., rendered obstetrical services in the delivery of Jolee and, at all times material to this proceeding, was a "participating physician" as defined in section 766.302(7).

5. Fort Walton Beach Medical Center is a hospital located in Fort Walton Beach, Florida, and is the "hospital" as that term is defined in section 766.302(6).

6. Petitioners filed a petition pursuant to section 766.305, seeking compensation from the Florida Birth-Related Neurological Injury Compensation Association (NICA), and that petition is incorporated herein by reference in its entirety, including all attachments. Any reference made within this document to NICA encompasses, where appropriate, the Florida Birth-Related Neurological Injury Compensation Plan (Plan).

CONCLUSIONS OF LAW

7. The Division of Administrative Hearings has jurisdiction over the subject matter and the parties to this proceeding pursuant to section 766.301.

8. Section 766.305(7) requires the presiding administrative law judge to approve the settlement of any claim where NICA determines that the injury is compensable.

CONCLUSION

Based on the Findings of Fact and Conclusions of Law,

It is ORDERED:

1. The Stipulation and Joint Petition filed August 20, 2019, is approved, and the parties are directed to comply with the provisions of the Stipulation and Joint Petition.

2. Petitioners, Elizabeth Midland and Christopher Midland, as the parents and legal guardians of Jolee Harper Midland, are awarded one hundred thousand dollars (\$100,000), to be paid to the parents as periodic payments, pursuant to section

766.31(1)(b), as well as payment of benefits as authorized pursuant to section 766.31(1)(a), subject to the provisions of paragraph 19 of the parties' Stipulation and Joint Petition.

3. Upon the payment of the award of \$100,000, and past benefits/expenses, Petitioners' claims shall be deemed fully satisfied and extinguished, except for Respondent's continuing obligation under section 766.31(2) to pay future expenses as incurred.

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 27th day of August, 2019, in Tallahassee, Leon County, Florida.



LISA SHEARER NELSON
Administrative Law Judge
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Filed with the Clerk of the
Division of Administrative Hearings
this 27th day of August, 2019.

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).