

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

AMENI SELMI AND MONDHER TAHAR
GHALI, INDIVIDUALLY AND AS NATURAL
PARENTS OF OUBEY GHALI (DECEASED),

Petitioners,

vs.

Case No. 20-0295N

FLORIDA BIRTH-RELATED NEUROLOGICAL
INJURY COMPENSATION ASSOCIATION,

Respondent,

and

SHEREEN OLOUFA, M.D.; AND ORLANDO
HEALTH CENTAL, INC., D/B/A HEALTH
CENTRAL HOSPITAL,

Intervenors.

_____ /

FINAL ORDER

On December 21, 2020, the parties filed an Amended Stipulation and Joint Petition for Compensation of Claim Arising Out of Florida Birth-Related Neurological Injury Pursuant to Chapter 766, Florida Statutes (Amended Stipulation and Joint Petition). Petitioners and the Florida Birth-Related Neurological Injury Compensation Association (NICA) seek entry of an order approving the resolution of the claim for benefits filed in accordance with the provisions of chapter 766, Florida Statutes. Intervenors, Shereen Oloufa, M.D., and Orlando Health Central, Inc., (Orlando Health Central) have not filed an objection.

PRELIMINARY STATEMENT

On January 13, 2020, Petitioners, Ameni Selmi and Mondher Tahar Ghali, individually and as parents of Oubey Ghali (Oubey), filed a Petition for Determination of Compensability Pursuant to Florida Statute Section 766.301, et al. (Petition). The Petition named Shereen Oloufa, M.D., as the attending physician, and Orlando Health Central as the hospital where Oubey was born. On January 29, 2020, NICA, Dr. Oloufa, and Orlando Health Central were served by certified mail with the Petition, and certified return receipts indicate that all received the Petition.

On March 4, 2020, Dr. Oloufa and Orlando Health Central moved to intervene, and leave to do so was granted by Order dated March 12, 2020. On September 2, 2020, Petitioners filed a Suggestion of Death, advising that Oubey had passed away. On September 10, 2020, NICA filed a Notice of Compensability and Request for Evidentiary Hearing. After an approved extension of time, Petitioners filed a Notice of Acceptance of Respondent's Determination of Compensability, but some additional time was requested and granted so that counsel for the parties could work out the terms of settlement and communicate those to Petitioners. On December 11, 2020, the parties filed a Stipulation and Joint Petition; however, a review of the Stipulation and Joint Petition left the undersigned with doubt that all of the relevant terms had been included. Accordingly, on December 16, 2020, an Order Requiring Response Clarifying Terms of Stipulation and Joint Petition was issued. On December 21, 2020, the Stipulation and Joint Petition was refiled (Amended Stipulation and Joint Petition), in which the areas of concern were clarified. After review of the Amended Stipulation and Joint Petition, this Final Order is issued approving the Amended Stipulation and Joint Petition.

FINDINGS OF FACT

Based on the stipulation of the parties, the following facts are found:

1. Ameni Selmi and Mondher Tahar Ghali are the parents and legal guardians of Oubey, and are the “Claimants” as defined by section 766.302(3).
2. Oubey incurred a “birth-related neurological injury” as that term is defined in section 766.302(2), on or about January 25, 2018, which was the sole and proximate cause of Oubey’s medical condition. Oubey died during the pendency of this action on June 24, 2020.
3. At birth, Oubey weighed 3,770 grams.
4. Shereen Oloufa, M.D., rendered obstetrical services in the delivery of Oubey and, at all times material to this action, was a “participating physician” as defined in section 766.302(7).
5. Orlando Health Central is a hospital located in Ocoee, Florida, and is the “hospital,” as that term is defined in section 766.302(6), where Oubey was born.
6. Petitioners filed a Petition pursuant to section 766.305, seeking compensation from 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 (the 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 upon the Findings of Fact and Conclusions of Law, it is
ORDERED:

1. The Amended Stipulation and Joint Petition filed December 21, 2020, is approved, and the parties are directed to comply with the provisions contained therein.

2. Petitioners, Ameni Selmi and Mondher Tahar Ghali, as parents of Oubey Ghali, are awarded One Hundred Thousand Dollars (\$100,000.00) to be paid as a lump sum payment, as authorized by section 766.31(1)(b).

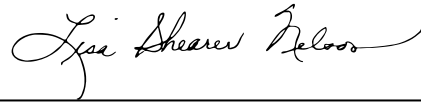
3. Petitioners are also awarded payment of past expenses under section 766.31(1)(a), subject to the provisions of paragraph 19 of this Amended Stipulation and Petition. It is noted that Petitioners have declined receipt of the death benefit available pursuant to section 766.31(1)(b)2.

4. NICA will reimburse Ronald S. Gilbert, Esquire, of Colling Gilbert Wright & Carter, LLC, an agreed-upon attorney's fee of Ten Thousand Dollars (\$10,000.00) and expenses of Five Hundred Dollars (\$500.00), for a total of Ten Thousand, Five Hundred Dollars (\$10,500.00), in full, for services rendered in the filing of this claim.

5. Upon payment of the award of \$100,000; past benefits/expenses; and payment of the attorney's fee and costs awarded to Petitioners' counsel, Petitioners' claims shall be deemed fully satisfied and extinguished.

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 29th day of December, 2020, in Tallahassee,
Leon County, Florida.



LISA SHEARER NELSON
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 29th day of December, 2020.

COPIES FURNISHED:
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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).