STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

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Petitioners,

Case No. 21-1122MTR

vs.

AETNA BETTER HEALTH OF FLORIDA AND
AGENCY FOR HEALTH CARE
ADMINISTRATION,

Respondents.
_____/

FINAL ORDER

Pursuant to notice, a hearing was conducted in this case by video-conference via Zoom on July 8, 2021, before Administrative Law Judge June C. McKinney of the Division of Administrative Hearings ("DOAH").

APPEARANCES

For Petitioner: Floyd B. Faglie, Esquire
Staunton & Faglie, PL
189 East Walnut Street
Monticello, Florida 32344

Lara Anna Dabdoub, Esquire
Freidin Brown, P.A.
One Biscayne Tower
2 South Biscayne Boulevard, Suite 3100
Miami, Florida 33131

For Respondent Aetna Better Health of Florida:

Caroline Catchpole Spradlin, Esquire
Phelps Dunbar, LLP
100 South Ashley Drive, Suite 2000
Tampa, Florida 33602

For Respondent Agency for Health Care Administration:

Alexander R. Boler, Esquire
2073 Summit Lake Drive, Suite 300
Tallahassee, Florida 32317

STATEMENT OF THE ISSUE

The issue is the amount payable to Respondents, Agency for Health Care Administration ("AHCA") and Aetna Better Health of Florida ("Aetna") ("Respondents"), in satisfaction of Respondents' Medicaid lien of $478,856.78 from a $5,001,500.00 settlement received by Petitioner, D.T. ("Petitioner" or "DT"), from a third party, pursuant to section 409.910, Florida Statutes.

PRELIMINARY STATEMENT

On March 22, 2021, Petitioner's Petition to Determine Amount in Satisfaction of Medicaid Liens ("Petition") was referred to DOAH requesting a hearing. In the Petition, Petitioner disputed the amount of Medicaid liens. The Petition was assigned to the undersigned administrative law judge.

This case was noticed for hearing on June 22, 2021. The parties stipulated to continue the final hearing. Pursuant to notice, the final hearing proceeded as rescheduled on July 8, 2021.

The parties filed a Joint Pre-hearing Stipulation in which they identified stipulated facts for which no further proof would be necessary, and the relevant facts stipulated therein are accepted and made part of the Findings of Fact below.

At hearing, Petitioner presented the testimony of two expert witnesses: Attorney Philip Freidin and Attorney R. Vinson Barrett. Petitioner's Exhibits 1 through 12 were received into evidence without objection.

Respondents did not present any witnesses or proffer any exhibits for admission into evidence.

The proceedings of the hearing were recorded and transcribed. A one-volume Transcript of the hearing was filed at DOAH on August 10, 2021. The undersigned granted the parties' joint motion to extend time and extended the proposed final order deadline. Petitioner and AHCA filed timely proposed final orders that the undersigned has considered in the preparation of this Final Order. Aetna did not provide a proposed final order.

Unless otherwise noted, all statutory references are to the Florida Statutes (2020).

FINDINGS OF FACT

1. DT and his twin sister were born at 32 weeks, one day gestation by emergency cesarean section ("C-section") on October 4, 2014, in Miami, Florida. Upon admission to the hospital, the nursing staff had difficulty obtaining and maintaining the fetal heart rate for twin DT. DT experienced 12 minutes of prolonged heart rate deceleration and/or bradycardia with minimal variability. The nursing staff failed to timely communicate and/or notify the obstetrician of this important/critical finding. Given the nursing staff's failure to notify the obstetrician of the critical findings, a STAT C-section was not ordered.

2. As a result of the delay in the C-section, DT suffered catastrophic and permanent brain damage, and, as a result, he has little, if any, normal function. DT cannot speak or walk, cannot appreciate his surroundings, must be fed, dressed, and cared for in every aspect of his life, including his bowel and bladder.

3. DT's medical care related to the injury was paid by Medicaid. AHCA through the Medicaid program provided $67,211.03 in benefits; Department

of Health, Children's Medical Services ("CMS"), through the Medicaid program provided $99,807.16 in benefits; Aetna through the Medicaid program provided $292,145.33 in benefits; and WellCare of Florida ("Wellcare") through the Medicaid program provided $19,693.26 in benefits. The sum of these benefits, $478,856.78 constituted DT's entire claim for past medical expenses.

4. DT's parents brought a medical malpractice action against the medical staff and providers responsible for DT's care ("Defendants") to recover all of DT's damages, as well as their individual damages associated with DT's injuries.

5. Philip Freidin ("Freidin"), a civil trial attorney with the law firm of Freidin Brown, P.A., in Miami, Florida, represented DT in his medical malpractice action.

6. Freidin handled DT's medical malpractice case through to settlement. The medical malpractice action was settled through a series of confidential settlements in a lump-sum unallocated amount.

7. During the pendency of the medical malpractice action, AHCA, CMS, Wellcare, and Aetna were notified of the action.

8. AHCA and Aetna did not commence a civil action to enforce its rights under section 409.910(11) or intervene to join in DT's action against the Defendants.

9. AHCA asserted a $67,211.03 Medicaid lien, and Aetna asserted a $292,145.33 Medicaid lien, both of which were asserted against DT's cause of action and settlement of that action.

10. By letter, AHCA and Aetna were notified of DT's settlement.

11. AHCA and Aetna have not filed a motion to set-aside, void, or otherwise dispute DT's settlement.

12. The Medicaid program through AHCA, CMS, WellCare, and Aetna spent $478,856.78 on behalf of DT, all of which represents expenditures paid for DT's past medical expenses.

13. DT's taxable costs incurred in securing the settlement totaled $152,060.30.

14. Application of the formula at section 409.910(11)(f) to DT's settlement requires payment of the full $67,211.03 AHCA lien and $292,145.33 Aetna lien.

15. Petitioner has deposited the Medicaid lien amount in an interest-bearing account for the benefit of AHCA pending an administrative determination of AHCA's rights, and this constitutes "final agency action" for purposes of chapter 120, Florida Statutes, pursuant to section 409.910(17).

16. Repayment to AHCA's Medicaid program is prioritized by law and contract over Medicaid-managed care plans, such as Aetna.

Facts Adduced at Hearing

17. Petitioner presented expert testimony from Attorney Freidin. Freidin is a 52-year trial lawyer who has specialized in personal injury and medical malpractice. During his practice, he has routinely handled numerous catastrophic plaintiff injury cases, including cases with children. Freidin became board certified in civil trial by The Florida Bar in 1989, and he has handled over 200 jury trials. Freidin is also a long-term active member and past president of the Florida Justice Association. During his career, Freidin has taught over 150 continuing legal education courses on the subject matter of trial practice.

18. Freidin's practice and expertise also encompasses the regular valuation of damages for injured parties. He testified that he routinely reviews clients' cases to determine their value by assessing the economic and non-economic damages. Freidin explained that, as a part of his practice, he makes regular assessments concerning the value of damages suffered for each case. He also detailed his process for making those assessments. Freidin explained that he frequently reviews jury verdict reports and stays abreast of jury verdicts, as well as roundtabled cases with other attorneys when determining damage amounts.

19. Freidin testified that as part of his law practice, he also routinely participates in the process of allocation of settlement amounts. He explained that he is very familiar with how to allocate in the context of health insurance liens, workers' compensation liens, and Medicare set-asides.

20. At the hearing, Freidin described the incident that led to DT's injuries. He also explained the extent of DT's injuries and testified about the medical malpractice claim. He testified that there were three periods of delay in ordering the emergency C-section during DT's birth where DT sustained decreased loss of oxygen: one for eight minutes; one for 12 minutes, where no one called a doctor to do anything; and one for 17 minutes, which caused DT severe brain damage. As a result of the delays, Freidin explained that DT has seizures, cannot feed himself, walk, talk, bathe, dress himself, or do anything, while his twin sister is normal. Freidin testified that DT was born with catastrophic brain damage and the injury has "completely robbed him of life." He explained further that DT "literally has no human functions" and no one knows his level of suffering or cognition.

21. Freidin described how DT's parents are remarkable and have taken excellent care of DT. They have been devastated by DT's injuries and seizures, which have required them to stop sleeping in the same bedroom. DT's mother sleeps in the room with DT to care for him.

22. Freidin testified that he calculated DT's full value of damages suffered at $45 million. Freidin credibly testified regarding the process he took in evaluating and determining the reasonable value of damages suffered in DT's case. Freidin explained that he served as lead counsel on the team for DT's medical malpractice case with Lara Dabdoub, his paralegal, Jon Freidin, and an appellate firm. He knows the whole case and has reviewed DT's medical records, deposed the doctors, experts, and nurses in the case, as well as reviewed the unsworn statements, and met with the family.

23. Freidin explained that while he was litigating DT's case, a life care plan was prepared detailing DT's future medical care needs and the costs of

each item. Freidin also explained that he had an economist review the life care plan to calculate the present value of DT's future care, as well as the present value of his claim for future lost earnings. Freidin testified that the calculations of the economist's present money values of DT's future medical care and lost earnings ranged from $16 million at the low end to $60 million at the high end.

24. Freidin testified further that the life care plan and economist report[1] he reviewed for DT's case has a damage amount consistent with other cases of children with DT's type of injury and what he has seen in the past.

25. Freidin further explained that in order to determine the full amount of damages suffered, the economic damages would have to be added to the non-economic damages.

26. Freidin testified he evaluated DT's non-economic damages based on his parents' loss of consortium and DT's loss of enjoyment of life. Based on his training and experience, Freidin determined each of DT's parents' claim for loss of consortium was valued at $5 million and DT's value for loss of enjoyment of life at "least $20 and perhaps $25 million," which totals $30 to $35 million for non-economic damages.

27. Freidin also explained that the jury verdicts in Petitioner's Exhibit 12 were comparable and instructive for this case. He clarified that the jury verdict package averaged an award of non-economic damages for the injured child of $19.4 million, which supports DT's $20 to $25 million non-economic valuation he made.

28. Freidin further explained that when determining DT's value of damages, he also roundtabled DT's case several times with other lawyers to help determine the value of a profoundly brain injured child during labor and

[1] The undersigned is not persuaded by AHCA's contention that the life care plan, Petitioner's Exhibit 7, and economist report, Petitioner's Exhibit 8, are hearsay because neither the life care plan nor the economist report were offered for the truth of the matter asserted but were offered as evidence of the more general value of the claim in litigation.

delivery. Freidin testified that the general consensus from the roundtabling with other attorneys was the conservative value of DT's case is $45 million.

29. Freidin explained how DT's case was vigorously defended, and some experts opined strong defenses. Freidin testified that, ultimately, DT's case was mediated and settled for $5,001,500.00. Freidin also testified that the settlement amount did not fully compensate DT and his parents for the full value of their damages.

30. Freidin's unrefuted testimony that placed the value of all damages at $45 million concluded that DT's settlement only recovered 11.1 percent of the value of his damages. Freidin opined credibly that because DT recovered only 11.1 percent of his damages, he recovered from the settlement only 11.1 percent of the $478,856.78 claim for past medical expenses or $53,153.10 of the settlement to past medical expenses.

31. At hearing, R. Vinson Barrett ("Barrett") also provided an expert opinion regarding the value of DT's damages and allocation of past medical expenses. Barrett is a more than 40-year trial lawyer and partner with the law firm of Barrett Nonni & Homola, in Tallahassee, Florida, with an active civil practice. Barrett's practice focuses on plaintiffs' medical malpractice and wrongful death law. He has handled cases involving catastrophic brain injury to children and routinely litigates jury trials.

32. From his practice, Barrett is familiar with reviewing medical records, life care plans, and economist reports concerning catastrophic brain damage to children. He stays abreast of jury verdicts by reading jury verdict reports and discussing cases with other trial attorneys. Barrett is also a member of the Capital City Justice Association and the Florida Justice Association.

33. As a routine part of his practice, Barrett makes assessments concerning the value of damages suffered by injured parties, and he explained the process for making the assessments. He testified that as part of his practice, he also has experience with settlement allocations and it has

been a part of his law practice in the context of health insurance liens, Medicare set-asides, and workers' compensation liens.

34. Barrett testified that he has been accepted as an expert in the valuation of damages in federal court, as well as in over 30 Medicaid lien hearings regarding value of damages and allocations to past medical expenses at DOAH.

35. During the hearing, Barrett detailed how he determined the value of DT's case. He reviewed the exhibits in this case, the report of DT's court-appointed guardian ad litem, and the Joint Pre-hearing Stipulation. Barrett explained that he is familiar with DT's injuries and the three periods of prolonged lack of oxygen that resulted in systemic brain injuries to the point that DT is unable to care for himself in any way. Barrett detailed how DT is 100 percent dependent on someone to take care of him because he cannot walk, talk, control his bowel or bladder, or feed himself. Barrett further testified that DT "has no life but one hook[ed] to tubes and … [h]is life has been totally taken away from him."

36. Barrett testified that based on his professional training and experience of reviewing so many life care plans and economist reports in cases where infants are brain injured, he believed that DT's damages have a value of at least $45 million. He explained that economic damages would be between $16 and $60 million because of DT's needs. The costs would be high because DT needs everything from a house that has to be equipped to a van for transport, as well as diapers, complicated medical procedures, and around-the-clock, 24-hour-a-day nursing care.

37. Barrett also opined that the non-economic damages for DT's pain and suffering, past and future, is "as bad as you can get." Barrett explained that the parents' lives have been turned around and there really will not be any vacations for them. They will just be taking care of DT. Barrett testified that after reviewing Petitioner's Exhibit 12, the package of jury verdicts, and looking at the cases with some type of birth injury, the average damages for

pain and suffering was $19.4 million. He testified that he would value non-economic damages between $20 to $25 million.

38. Barrett also testified that the settlement amount of $5,001,500.00 did not fully compensate DT for all the damages he and his parents suffered.

39. Barrett used his allocation experience to credibly testify that using the conservative value of all damages, $45,000,000.00, the $5,001,500.00 settlement represents a recovery of 11.1 percent of the value of the damages. Barrett further testified that because the settlement was only 11.1 percent of the value of the damages recovered, only 11.1 percent of the $478,856.78 claim for past medical expenses, $53,153.10, should be recovered. Barrett testified that his methodology of determination was reasonable to allocate $53,153.10 of the settlement to past medical expenses in this case. Barrett's testimony was uncontradicted and persuasive on this point.

40. Barrett explained that his methodology of calculating the $53,153.10 allocation to past medical expenses in this case was consistent with the allocations method used from the approximate 30 Medicaid third-party recovery cases where he testified previously as an expert at DOAH.

Ultimate Findings of Fact

41. The testimony of Petitioner's two experts regarding the total value of damages was credible, unimpeached, and unrebutted. Petitioner proved that the settlement does not fully compensate DT for the full value of damages.

42. Based on the forgoing, the evidence supports, and it is found, that $45 million, as a full measure of Petitioner's combined damages, is a conservative and appropriate figure against which to calculate a lesser portion of the total recovery that should be allocated as reimbursement for the Medicaid lien for past medical expenses.

43. As testified to by the experts, DT's settlement recovery represents only 11.1 percent of the total value of his claim.

44. AHCA and Aetna did not offer any witnesses, alternate opinions, or documentary evidence as to the value of damages, or methodology. Hence, Petitioner's evidence is unrebutted.

45. Thus, Petitioner demonstrated that the settlement allocation should be based on the ratio between the settlement amount of $5,001,500.00 and the conservative valuation of $45 million, meaning 11.1 percent of the settlement proceeds should be allocated to past medical expenses. Hence, Petitioner has proven $53,153.10 of the settlement represents AHCA's reasonable and fair reimbursement for past medical expenses.

CONCLUSIONS OF LAW

46. DOAH has jurisdiction over the subject matter and the parties in this case, and final order authority pursuant to sections 120.569, 120.57(1), and 409.910(17). AHCA is the agency authorized to administer Florida's Medicaid program. *See* § 409.902, Fla. Stat.

47. Petitioner bears the burden to prove, by clear and convincing evidence, that the amount payable to AHCA in satisfaction of its Medicaid lien is less than the $478,856.78 that would be due if the formula in section 409.910(11)(f) were applied in this proceeding. *Gallardo v. Dudek*, 963 F.3d 1167, 1182 (11th Cir. 2020)(burden of proof is on the party disputing the amount to be paid in satisfaction of a Medicaid lien, by clear and convincing evidence).

48. The Medicaid program "provide[s] federal financial assistance to States that choose to reimburse certain costs of medical treatment for needy persons." *Harris v. McRae*, 448 U.S. 297, 301 (1980). Though participation is optional, once a state elects to participate in the Medicaid program, it must comply with federal requirements. *Id.*

49. As a condition for receipt of federal Medicaid funds, states are required to seek reimbursement for medical expenses incurred on behalf of beneficiaries who later recover from a third party. *See* 42 U.S.C.

§ 1396a(a)25; § 409.910(4), Fla. Stat.; *Ark. Dep't of Health & Human Servs. v. Ahlborn*, 547 U.S. 268, 276 (2006).

50. To secure reimbursement from liable third parties, the State must require the Medicaid recipient assign to the state his right to recover medical expenses from those third parties. In relevant part, 42 U.S.C. § 1396a(a)(25) requires:

> (H) that to the extent that payment has been made under the State Plan for medical assistance in any case where a third party 13 has a legal liability to make payment for such assistance, the State has in effect laws under which, to the extent that payment has been made under the State Plan for medical assistance for health care items or services furnished to an individual, the State is considered to have acquired the rights of such individual to payment by any other party for such health care items or services.

51. To comply with this federal mandate, the Florida Legislature enacted section 409.910, Florida's Medicaid Third-Party Liability Act. This statute authorizes and requires the State, through AHCA, to be reimbursed for Medicaid funds paid for a recipient's medical care when that recipient later receives a personal injury judgment or settlement from a third party. *Smith v. Ag. for Health Care Admin.*, 24 So. 3d 590 (Fla. 5th DCA 2009). The statute creates an automatic lien, on behalf of AHCA, on any such judgment or settlement for the medical assistance provided by Medicaid. § 409.910(6)(c), Fla. Stat.

52. The Florida Supreme Court has determined that the State's recovery of certain portions of settlement funds received by a Medicaid recipient to be the amount in a personal injury settlement fairly allocable to only past medical expenses. *Giraldo v. Ag. for Health Care Admin.*, 248 So. 3d 53, 56 (Fla. 2018).

53. The amount to be recovered for Medicaid medical expenses from a judgment, award, or settlement from a third party is determined by the

formula in section 409.910(11)(f). *Ag. for Health Care Admin. v. Riley*, 119 So. 3d 514, 516 n.3 (Fla. 2d DCA 2013).

54. Section 409.910(11)(f) provides, in pertinent part, that:

> (11) The agency may, as a matter of right, in order to enforce its rights under this section, institute, intervene in, or join any legal or administrative proceeding in its own name in one or more of the following capacities: individually, as subrogee of the recipient, as assignee of the recipient, or as lienholder of the collateral.
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> * * *
>
> f) Notwithstanding any provision in this section to the contrary, in the event of an action in tort against a third party in which the recipient or his or her legal representative is a party which results in a judgment, award, or settlement from a third party, the amount recovered shall be distributed as follows:
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> * * *
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> 1. After attorney's fees and taxable costs as defined by the Florida Rules of Civil Procedure, one-half of the remaining recovery shall be paid to the agency up to the total amount of medical assistance provided by Medicaid.
> 2. The remaining amount of the recovery shall be paid to the recipient.
> 3. For purposes of calculating the agency's recovery of medical assistance benefits paid, the fee for services of an attorney retained by the recipient or his or her legal representative shall be calculated at 25 percent of the judgment, award, or settlement.
> 4. Notwithstanding any provision of this section to the contrary, the agency shall be entitled to all medical coverage benefits up to the total amount of medical assistance provided by Medicaid. For purposes of this paragraph, "medical coverage" means any benefits under health insurance, a health maintenance organization, a preferred

> provider arrangement, or a prepaid health clinic, and the portion of benefits designated for medical payments under coverage for workers' compensation, personal injury protection, and casualty.

55. The parties stipulated that the amount due to AHCA and Aetna, respectively, in satisfaction of their liens, pursuant to the formula set forth in section 409.910(11)(f), is $67,211.03 and $292,145.33. It is undisputed that Medicaid provided $478,856.78 in past medical expenses for DT and that Respondents asserted a Medicaid lien against Petitioner's $5,001,500.00 settlement and the right to seek reimbursement for its expenses. Respondents are utilizing the mechanism set forth in section 409.910(11)(f) to enforce their right.

56. Petitioner, however, asserts that a lesser amount is owed to Respondents because Petitioner did not recover the full value of his damages. Section 409.910(17)(b) provides a method whereby a recipient may challenge AHCA's presumptively correct calculation of medical expenses payable to the agency. The mechanism is a means for determining whether a lesser portion of total recovery should be allocated as reimbursement for medical expenses in lieu of the amount calculated by application of the formula in section 409.910(11)(f). Section 409.910(17)(b) provides, in pertinent part, that:

> If federal law limits the agency to reimbursement from the recovered medical expense damages, a recipient, or his or her legal representative, may contest the amount designated as recovered medical expense damages payable to the agency pursuant to the formula specified in paragraph (11)(f) by filing a petition under chapter 120 within 21 days after the date of payment of funds to the agency or after the date of placing the full amount of the third-party benefits in the trust account for the benefit of the agency pursuant to paragraph (a). The petition shall be filed with the Division of Administrative Hearings. For purposes of chapter 120, the payment of funds to the agency or the

> placement of the full amount of the third-party benefits in the trust account for the benefit of the agency constitutes final agency action and notice thereof. Final order authority for the proceedings specified in this subsection rests with the Division of Administrative Hearings. This procedure is the exclusive method for challenging the amount of third-party benefits payable to the agency. In order to successfully challenge the amount designated as recovered medical expenses, the recipient must prove, by clear and convincing evidence, that the portion of the total recovery which should be allocated as past and future medical expenses is less than the amount calculated by the agency pursuant to the formula set forth in paragraph (11)(f). Alternatively, the recipient must prove by clear and convincing evidence that Medicaid provided a lesser amount of medical assistance than that asserted by the agency.

57. An administrative procedure for adversarial testing of the fair allocation of the amount of the settlement that is attributable to medical costs includes considering the evidence used to rebut the section 409.910(11)(f) formula when determining whether AHCA's lien amount should be adjusted. *See Harrell v. State, Ag. for Health Care Admin.*, 143 So. 3d 478, 480 (Fla. 1st DCA 2014) (holding that petitioner "must be given the opportunity to seek reduction of the amount of a Medicaid lien established by the statutory formula outlined in section 409.910(11)(f), by demonstrating, with evidence, that the lien amount exceeds the amount recovered for medical expenses").

58. Under circumstances comparable to those in this case, where the Medicaid recipient provided expert testimony regarding the appropriate share of settlement funds to be allocated to past medical expenses and the agency failed to present any evidence to rebut the experts' opinions, recent appellate decisions have accepted a proportional reduction as a valid basis for

making the required distribution. *Eady v. State, Ag. for Health Care Admin.*, 279 So. 3d 1249 (Fla. 1st DCA 2019).

59. Florida courts have consistently provided guidance and held that it is reversible error for an ALJ to reject the unrebutted competent expert testimony of a Medicaid recipient's proposed pro rata allocation method to past medical expenses. *See Larrigui-Negron v. State, Ag. for Health Care Admin.*, 280 So. 3d 550 (Fla. 1st DCA 2019); *Mojica v. State, Ag. for Health Care Admin.*, 285 So. 3d 393, 398 (Fla. 1st DCA 2019).

60. The First District Court of Appeal, in *Bryan v. State, Agency for Health Care Administration*, 291 So. 3d 1033 (Fla. 1st DCA 2020), also upheld the validity of proportional reduction as a valid means of establishing a lesser portion of the total recovery subject to reimbursement pursuant to section 409.910(17)(b). The court explained that:

> [I]n this case, [the recipient] presented unrebutted competent substantial evidence to support that the value of her case was at least $30 million. She also presented unrebutted competent substantial evidence that her pro rata methodology did indeed support her conclusion that $38,106.28 was a proper allocation to her past medical expenses. Such methodology was similar to the methodology employed in *Giraldo*, *Edy*, and *Mojica*. AHCA did not present any evidence to challenge [the recipient's] valuation, nor did it present any alternative theories or methodologies that would support the calculation of a different allocation amount for past medical expenses.

Id. at 1036.

61. In this case, as in *Bryan*, two expert trial attorneys gave unrebutted testimony to establish conservative (and uncontested) valuation of Petitioner's damages. As in *Bryan*, the experts opined that a proportional reduction was the proper method of determining the portion of the recovery, which should be allocated as past medical expenses. In this matter, AHCA

and Aetna failed to present evidence that Petitioner's pro-rata methodology was inaccurate or that another method would be more appropriate to apply.

62. Even though AHCA cross-examined Petitioner's experts, AHCA did not elicit any compelling information or persuasive evidence to refute or undermine Freidin or Barrett's opinions that a fair allocation of past medical expenses recovered from Petitioner's settlement was $53,153.10. Additionally, Respondents failed to contest or contradict the reduced amount presented by Petitioner's experts as the fair allocation of past medical expenses from Petitioner's settlement. In short, Petitioner's expert testimony concerning a fair allocation of the settlement agreement was unchallenged by Respondents, without any contrary or contradictory facts or evidence in the record.

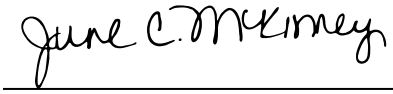
63. Where uncontradicted testimony is presented by the recipient, the factfinder must have a "reasonable basis in the evidence" to reject it. *Giraldo*, 248 So. 3d at 56 (quoting *Wald v. Grainger*, 64 So. 3d 1201, 1205-06 (Fla. 2011)). In the instant case, as in *Eady*, *Larrigui-Negron*, *Mojica*, and *Bryan*, the experts' uncontradicted testimony was clear and concise, and Respondents provided no reasonable basis to reject the testimony.

64. Accordingly, Petitioner has proven his case by clear and convincing evidence, as required by section 409.910(17)(b). Based on the foregoing, since 11.1 percent of $478.856.78 is $53,153.10, that figure represents the appropriate proportionate share of the total recovery that should be allocated to the Medicaid lien.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that the Agency for Health Care Administration is entitled to $53,153.10 in satisfaction of its Medicaid lien. Aetna Better Health of Florida is entitled to $0 from the settlement.

DONE AND ORDERED this 21st day of September, 2021, in Tallahassee, Leon County, Florida.



JUNE C. MCKINNEY
Administrative Law Judge
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 21st day of September, 2021.

COPIES FURNISHED:

Alexander R. Boler, Esquire
2073 Summit Lake Drive, Suite 300
Tallahassee, Florida 32317

Lara Anna Dabdoub, Esquire
Freidin Brown, P.A.
One Biscayne Tower
2 South Biscayne Boulevard, Suite 3100
Miami, Florida 33131

Floyd B. Faglie, Esquire
Staunton & Faglie, PL
189 East Walnut Street
Monticello, Florida 32344

Caroline Catchpole Spradlin, Esquire
Phelps Dunbar, LLP
100 South Ashley Drive, Suite 2000
Tampa, Florida 33602-5315

Shena L. Grantham, Esquire
Agency for Health Care Administration
Building 3, Room 3407B
2727 Mahan Drive
Tallahassee, Florida 32308

Kimberly L. Boldt, Esquire
Boldt Law Firm
160 West Camino Real, Suite 262
Boca Raton, Florida 33432

Lauren Hirsch, Esquire
Aetna Better Health of Florida
8200 Northwest 41st Street, Suite 125
Doral, Florida 33166

Richard J. Shoop, Agency Clerk
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 3
Tallahassee, Florida 32308

Thomas M. Hoeler, Esquire
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 3
Tallahassee, Florida 32308

Simone Marstiller, Secretary
Agency for Health Care Administration
2727 Mahan Drive, Building 3
Tallahassee, Florida 32308-5407

William H. Roberts, Acting General Counsel
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 3
Tallahassee, Florida 32308

NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to judicial review pursuant to section 120.68, 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 of the notice, accompanied by any filing fees prescribed by law, with the clerk of the district court of appeal in the appellate district where the agency maintains its headquarters or where a party resides or as otherwise provided by law.