

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 17-185V

Filed: December 19, 2018

UNPUBLISHED

RIVER COMMUNITIES FIDUCIARY  
SERVICES, on behalf of the estate of  
Y.M.B., a minor child,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Damages Decision Based on Proffer;  
Diphtheria, Tetanus, acellular  
Pertussis (DTaP) Vaccine;  
Encephalopathy

*Anne Carrion Toale, Maglio Christopher & Toale, PA, Sarasota, FL, for petitioner.  
Glenn Alexander MacLeod, U.S. Department of Justice, Washington, DC, for  
respondent.*

### **DECISION AWARDING DAMAGES**<sup>1</sup>

**Dorsey**, Chief Special Master:

On February 8, 2017, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that his minor child, Y.M.B. suffered fever, status epilepticus, and acute encephalitis causally related to an adverse reaction to vaccinations she received on October 7, 2015. Petition at ¶¶ 2, 10, 12. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On February 27, 2018, a ruling on entitlement was issued, finding petitioner entitled to compensation for Y.M.B.’s encephalopathy injury. On December 18, 2018,

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

respondent filed a proffer on award of compensation ("Proffer"). Respondent proffers that, based upon her review of the evidence of record, the following should be awarded:

- A. All items of compensation identified in the joint life care plan entitled Appendix A which is attached to the Proffer as Tab A;
- B. The amount of \$801,523.55, representing compensation for petitioner's future lost wages;
- C. The amount of \$250,000.00, representing compensation for petitioner's actual pain and suffering;
- D. The amount of \$13,288.47, representing compensation for petitioner's actual unreimbursable expenses;
- E. The amount of \$32,448.05, representing compensation for the satisfaction of the State of North Carolina Medicaid lien;
- F. The amount of \$7,457.08, representing compensation for the satisfaction of the State of Colorado Medicaid lien;
- G. The amount of \$4,285.90, representing compensation for the satisfaction of the State of Pennsylvania Medicaid lien; and

In the Proffer, respondent represented that petitioner agrees with the proffered award. Based on the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **the undersigned awards the following:**

- A. A lump sum in the amount of \$1,260,924.06, representing compensation in the amount of \$209,400.51 for life care expenses in the first year after judgment, compensation in the amount of \$801,523.55 for future lost wages, and compensation in the amount of \$250,000.00 for actual pain and suffering, in the form of a check payable to petitioner as guardian(s)/conservator(s) of the estate of Y.M.B., for the benefit of Y.M.B.;**
- B. A lump sum in the amount of \$13,288.47, representing compensation for actual unreimbursable expenses; in the form of a check payable petitioner;**
- C. A lump sum payment of \$32,448.05, representing compensation for satisfaction of the State of North Carolina Medicaid lien payable jointly to petitioner and**

**North Carolina Division of Medical Assistance  
Office of the Controller  
2022 Mail Service Center  
Raleigh, NC 27699-2022  
Case Number: 287986  
Medicaid/Health Choice ID: 954135030P**

**Petitioner agrees to endorse this payment to the State of North Carolina;**

- D. A lump sum payment of \$7,457.08, representing compensation for satisfaction of the State of Colorado Medicaid lien payable jointly to petitioner and**

**Colorado Department of Health Care Policy and Financing  
Colorado Medical Assistance  
Tort and Casualty Recovery Program  
333 W. Hampden Ave., Suite # 425  
Englewood, CO 80110  
Medicaid ID Number: P084783  
Case Number: 185246  
Attn: Jazmin Rosenberg**

**Petitioner agrees to endorse this payment to the State of Colorado;**

- E. A lump sum payment of \$4,285.90, representing compensation for satisfaction of the State of Pennsylvania Medicaid lien payable jointly to petitioner and**

**Pennsylvania Department of Human Services  
Bureau of Program Integrity  
Division of Third Party Liability, Recovery Section  
P.O. Box 8486  
Harrisburg, PA 17105-8486  
CIS #: 870411199  
Attn: Patricia Nace**

**Petitioner agrees to endorse this payment to the State of Pennsylvania;  
and**

- F. An amount sufficient to purchase the annuity contract described in Proffer Section II.F.**

These amounts represent compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**  
Nora Beth Dorsey  
Chief Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.



Respondent proffers that Y.M.B. should be awarded all items of compensation set forth in the joint life care plan and illustrated by the chart attached at Tab A. Petitioner agrees.

B. Lost Future Earnings

The parties agree that based upon the evidence of record, Y.M.B. will not be gainfully employed in the future. Therefore, respondent proffers that Y.M.B. should be awarded lost future earnings as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(3)(B). Respondent proffers that the appropriate award for Y.M.B.'s lost future earnings is \$801,523.55. Petitioner agrees.

C. Pain and Suffering

Respondent proffers that Y.M.B. should be awarded \$250,000.00 in actual pain and suffering. See 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

D. Past Unreimbursable Expenses

Evidence supplied by petitioner documents the expenditure of past unreimbursable expenses related to Y.M.B.'s vaccine-related injury. Respondent proffers that petitioner should be awarded past unreimbursable expenses in the amount of \$13,288.47. Petitioner agrees.

E. North Carolina Medicaid Lien

Respondent proffers that Y.M.B. should be awarded funds to satisfy a State of North Carolina lien in the amount of \$32,448.05, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of North Carolina may have against any individual as a result of any Medicaid payments the State of Carolina has made to or on behalf of Y.M.B. from the date of her eligibility for benefits through the date of judgment in

this case as a result of her vaccine-related injury suffered on or about October 7, 2015, under Title XIX of the Social Security Act.

F. Colorado Medicaid Lien

Respondent proffers that Y.M.B. should be awarded funds to satisfy a State of Colorado lien in the amount of \$7,457.08, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of Colorado may have against any individual as a result of any Medicaid payments the State of Colorado has made to or on behalf of Y.M.B. from the date of her eligibility for benefits through the date of judgment in this case as a result of her vaccine-related injury suffered on or about October 7, 2015, under Title XIX of the Social Security Act.

G. Pennsylvania Medicaid Lien

Respondent proffers that Y.M.B. should be awarded funds to satisfy a Commonwealth of Pennsylvania lien in the amount of \$4,285.90, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the Commonwealth of Pennsylvania may have against any individual as a result of any Medicaid payments the Commonwealth of Pennsylvania has made to or on behalf of Y.M.B. from the date of her eligibility for benefits through the date of judgment in this case as a result of her vaccine-related injury suffered on or about October 7, 2015, under Title XIX of the Social Security Act.

**II. Form of the Award**

The parties recommend that the compensation provided to Y.M.B. should be made through a combination of lump sum payments and future annuity payments as described below,

and request that the Chief Special Master's decision and the Court's judgment award the following:<sup>2</sup>

A. A lump sum payment of \$1,260,924.06, representing compensation for life care expenses in the first year after judgment (\$209,400.51), lost future earnings (\$801,523.55), and pain and suffering (\$250,000.00), in the form of a check payable to petitioner as guardian(s)/conservator(s) of the estate of Y.M.B., for the benefit of Y.M.B. No payments shall be made until petitioner provides respondent with documentation establishing that petitioner has been appointed as the guardian(s)/conservator(s) of Y.M.B.'s estate. If petitioner is not authorized by a court of competent jurisdiction to serve as the guardian(s)/conservator(s) of the estate of Y.M.B., any such payment shall be made to the party or parties appointed by a court of competent jurisdiction to serve as guardian(s)/conservator(s) of the estate of Y.M.B. upon submission of written documentation of such appointment to the Secretary.

B. A lump sum payment of \$13,288.47, representing compensation for past unreimbursable expenses, in the form of a check payable to petitioner.

C. A lump sum payment of \$32,448.05, representing compensation for satisfaction of the State of North Carolina lien, payable jointly to petitioner and

North Carolina Division of Medical Assistance  
Office of the Controller  
2022 Mail Service Center  
Raleigh, NC 27699-2022  
Case Number: 287986  
Medicaid/Health Choice ID: 954135030P

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<sup>2</sup> Should Y.M.B. die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering.

Petitioner agrees to endorse this payment to the State of North Carolina.

D. A lump sum payment of \$7,457.08, representing compensation for satisfaction of the State of Colorado lien, payable jointly to petitioner and

Colorado Department of Health Care Policy and Financing  
Colorado Medical Assistance  
Tort and Casualty Recovery Program  
333 W. Hampden Ave., Suite # 425  
Englewood, CO 80110  
Medicaid ID Number: P084783  
Case Number: 185246  
Attn: Jazmin Rosenberg

Petitioner agrees to endorse this payment to the State of Colorado.

E. A lump sum payment of \$4,285.90, representing compensation for satisfaction of the Commonwealth of Pennsylvania lien, payable jointly to petitioner and

Pennsylvania Department of Human Services  
Bureau of Program Integrity  
Division of Third Party Liability, Recovery Section  
P.O. Box 8486  
Harrisburg, PA 17105-8486  
CIS #: 870411199  
Attn: Patricia Nace

Petitioner agrees to endorse this payment to the Commonwealth of Pennsylvania.

F. An amount sufficient to purchase the annuity contract,<sup>3</sup> subject to the conditions described below, that will provide payments for the life care items contained in the joint life care

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<sup>3</sup> In respondent's discretion, respondent may purchase one or more annuity contracts from one or more life insurance companies.

plan, as illustrated by the chart at Tab A attached hereto, paid to the life insurance company<sup>4</sup> from which the annuity will be purchased.<sup>5</sup> Compensation for Year Two (beginning on the first anniversary of the date of judgment) and all subsequent years shall be provided through respondent's purchase of an annuity, which annuity shall make payments directly to petitioner only so long as Y.M.B. is alive at the time a particular payment is due. At the Secretary's sole discretion, the periodic payments may be provided to the petitioner in monthly, quarterly, annual or other installments. The "annual amounts" set forth in the chart at Tab A describe only the total yearly sum to be paid to the petitioner and do not require that the payment be made in one annual installment.

1. Growth Rate

Respondent proffers that a four percent (4%) growth rate should be applied to all non-medical life care items, and a five percent (5%) growth rate should be applied to all medical life care items. Thus, the benefits illustrated in the chart at Tab A that are to be paid through annuity payments should grow as follows: four percent (4%) compounded annually from the date of

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<sup>4</sup> The Life Insurance Company must have a minimum of \$250,000,000 capital and surplus, exclusive of any mandatory security valuation reserve. The Life Insurance Company must have one of the following ratings from two of the following rating organizations:

- a. A.M. Best Company: A++, A+, A+g, A+p, A+r, or A+s;
- b. Moody's Investor Service Claims Paying Rating: Aa3, Aa2, Aa1, or Aaa;
- c. Standard and Poor's Corporation Insurer Claims-Paying Ability Rating: AA-, AA, AA+, or AAA;
- d. Fitch Credit Rating Company, Insurance Company Claims Paying Ability Rating: AA-, AA, AA+, or AAA.

<sup>5</sup> Petitioner authorizes the disclosure of certain documents filed by the petitioner in this case consistent with the Privacy Act and the routine uses described in the National Vaccine Injury Compensation Program System of Records, No. 09-15-0056.

judgment for non-medical items, and five percent (5%) compounded annually from the date of judgment for medical items. Petitioner agrees.

2. Life-Contingent Annuity

The petitioner will continue to receive the annuity payments from the Life Insurance Company only so long as Y.M.B. is alive at the time that a particular payment is due. Written notice shall be provided to the petitioner and the Secretary of Health and Human Services and the Life Insurance Company within twenty (20) days of Y.M.B.'s death.

3. Guardianship

No payments shall be made until petitioner provides respondent with documentation establishing that it has been appointed as the guardian of Y.M.B.'s estate. If petitioner is not authorized by a court of competent jurisdiction to serve as guardian of the estate of Y.M.B., any such payment shall be made to the party or parties appointed by a court of competent jurisdiction to serve as guardian(s)/conservator(s) of the estate of Y.M.B. upon submission of written documentation of such appointment to the Secretary.

**III. Summary of Recommended Payments Following Judgment**

A.	Lump sum paid to the court-appointed guardian(s)/conservator(s) of the estate of Y.M.B. for the benefit of Y.M.B.:	<b>\$1,260,924.06</b>
B.	Past unreimbursable expenses paid to petitioner:	<b>\$ 13,288.47</b>
C.	North Carolina Medicaid lien:	<b>\$ 32,448.05</b>
D.	Colorado Medicaid lien:	<b>\$ 7,457.08</b>
E.	Pennsylvania Medicaid lien:	<b>\$ 4,285.90</b>
F.	An amount sufficient to purchase the annuity contract described above in section II. F.	

Respectfully submitted,

JOSEPH H. HUNT  
Assistant Attorney General

C. SALVATORE D'ALESSIO  
Acting Director  
Torts Branch, Civil Division

CATHARINE E. REEVES  
Deputy Director  
Torts Branch, Civil Division

HEATHER L. PEARLMAN  
Assistant Director  
Torts Branch, Civil Division

*/s/Glenn A. MacLeod*  
GLENN A. MACLEOD  
Senior Trial Counsel  
Torts Branch, Civil Division  
U. S. Department of Justice  
P.O. Box 146, Benjamin Franklin Station  
Washington, D.C. 20044-0146  
Direct dial: (202) 616-4122

Dated: December 18, 2018

## Appendix A: Items of Compensation for Y.M.B.



**Appendix A: Items of Compensation for Y.M.B.**

ITEMS OF COMPENSATION	G.R.	*	M	Lump Sum Compensation Year 1 2018	Compensation Years 2-3 2019-2020	Compensation Year 4 2021	Compensation Year 5 2022	Compensation Year 6 2023	Compensation Year 7 2024	Compensation Years 8-10 2025-2027	Compensation Year 11 2028
Kepra	5%	*									
Diastat	5%	*									
Simply Thick	4%		M	944.33	944.33	944.33	944.33	944.33	944.33	944.33	944.33
Stroller	4%			599.95							
Bathtub Bench/ Shower Chair	4%			204.91	40.98	40.98	40.98	40.98	40.98	40.98	40.98
Exercise Mat	4%			381.05	76.21	76.21	76.21	76.21	76.21	76.21	76.21
Treadmill	4%			999.99	99.99	99.99	99.99	99.99	99.99	99.99	99.99
Floor Scooter	4%			345.95	69.19	69.19	69.19	69.19	69.19	69.19	69.19
Peanut Ball	4%			40.35	8.07	8.07	8.07	8.07	8.07	8.07	8.07
Balance Ball	4%			33.25	6.65	6.65	6.65	6.65	6.65	6.65	6.65
Nesting Steps	4%			289.20	28.92	28.92	28.92	28.92	28.92	28.92	28.92
Assistive Devices	4%			300.00	200.00	200.00	200.00	200.00	200.00	200.00	200.00
Therapeutic Equip	4%			200.00	200.00	200.00	200.00	200.00	200.00	200.00	200.00
iPad	4%			329.99	82.50	82.50	82.50	82.50	82.50	82.50	82.50
iPad Case	4%			89.95	22.49	22.49	22.49	22.49	22.49	22.49	22.49
iPad Screen Protector	4%			49.99	12.50	12.50	12.50	12.50	12.50	12.50	12.50
Internet Service for iPad	4%		M	359.88	359.88	359.88	359.88	359.88	359.88	359.88	359.88
Diapers	4%		M	979.42	979.42	979.42	979.42				
Incontinence Briefs	4%		M					416.43	416.43	416.43	416.43
Wipes	4%		M	357.70	357.70	357.70	357.70	153.30	153.30	153.30	153.30
Skin Barrier Cream	4%		M	98.04	98.04	98.04	98.04	98.04	98.04	98.04	98.04
Gloves	4%		M	81.50	81.50	81.50	81.50	81.50	81.50	81.50	81.50
Hand Sanitizer	4%		M	91.08	91.08	91.08	91.08	91.08	91.08	91.08	91.08
CHUX	4%		M	164.40	164.40	164.40	164.40	164.40	164.40	164.40	164.40
Mattress Underpads	4%			41.28	41.28	41.28	41.28	41.28	41.28	41.28	41.28
AFOs	4%	*									
Manual WC	4%	*									
WC Maint	4%	*									
WC Cushion	4%			315.00	157.50	157.50	157.50	157.50	157.50	157.50	157.50
Cushion Cover	4%			84.00	84.00	84.00	84.00	84.00	84.00	84.00	84.00
WC Pack	4%			25.00	12.50	12.50	12.50	12.50	12.50	12.50	12.50
Portable Ramp	4%			339.00	33.90	33.90	33.90	33.90	33.90	33.90	33.90
Home Mods	4%			81,080.00							

**Appendix A: Items of Compensation for Y.M.B.**

ITEMS OF COMPENSATION	G.R.	*	M	Lump Sum	Compensation	Compensation	Compensation	Compensation	Compensation	Compensation	Compensation
				Compensation Year 1	Years 2-3	Year 4	Year 5	Year 6	Year 7	Years 8-10	Year 11
				2018	2019-2020	2021	2022	2023	2024	2025-2027	2028
Special Needs Car Seat	4%			900.00				900.00			
Bruno Seating System	4%							10,250.00			
Seating System Maint	4%								500.00	166.67	166.67
Case Mngt	4%		M	13,440.00	13,440.00	13,440.00	10,080.00	10,080.00	10,080.00	10,080.00	10,080.00
Att. Care (School Days)	4%		M	9,828.00	9,828.00	9,828.00	9,828.00	9,828.00	9,828.00	9,828.00	19,656.00
Att. Care (Non School Days)	4%		M	39,528.00	39,528.00	39,528.00	39,528.00	39,528.00	39,528.00	39,528.00	38,016.00
Respite	4%		M								4,536.00
Home Care	4%		M								
Day Program	4%		M								
Lost Future Earnings				801,523.55							
Pain and Suffering				250,000.00							
Past Unreimbursable Expenses				13,288.47							
North Carolina Medicaid Lien				32,448.05							
Colorado Medicaid Lien				7,457.08							
Pennsylvania Medicaid Lien				4,285.90							
<b>Annual Totals</b>				<b>1,318,403.56</b>	<b>117,615.93</b>	<b>119,077.48</b>	<b>113,207.93</b>	<b>123,590.54</b>	<b>112,940.54</b>	<b>112,607.21</b>	<b>98,496.21</b>

Note: Compensation Year 1 consists of the 12 month period following the date of judgment.

Compensation Year 2 consists of the 12 month period commencing on the first anniversary of the date of judgment.

As soon as practicable after entry of judgment, respondent shall make the following payment to the court-appointed guardian(s)/ conservators(s) of the estate of Y.M.B. for the benefit of Y.M.B., for lost future earnings (\$801,523.55), pain and suffering (\$250,000.00), and Yr 1 life care expenses (\$209,400.51): \$1,260,924.06.

As soon as practicable after entry of judgment, respondent shall make the following payment to petitioner for past un-reimbursable expenses: \$13,288.47.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of North Carolina, as reimbursement of the state's Medicaid lien: \$32,448.05.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of Colorado, as reimbursement of the state's Medicaid lien: \$7,457.08.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the Commonwealth of Pennsylvania, as reimbursement of the state's Medicaid lien: \$4,285.90.

Annual amounts payable through an annuity for future Compensation Years follow the anniversary of the date of judgment.

Annual amounts shall increase at the rates indicated in column "G.R." above, compounded annually from the date of judgment.

Items denoted with an asterisk (\*) covered by health insurance and/or Medicare.

Items denoted with an "M" payable in 12 monthly installments at the discretion of respondent.

**Appendix A: Items of Compensation for Y.M.B.**

ITEMS OF COMPENSATION	G.R.	*	M	Compensation Year 12	Compensation Year 13	Compensation Year 14	Compensation Year 15	Compensation Year 16	Compensation Year 17	Compensation Year 18	Compensation Year 19
				2029	2030	2031	2032	2033	2034	2035	2036
ACA Premium	5%		M	3,053.40	3,324.72	3,428.52	3,532.32	3,644.04	3,755.88	3,871.56	3,991.32
ACA MOP	5%			5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00
Medicare Part B Premium	5%		M								
Medigap	5%		M								
Medicare Part D	5%		M								
Pediatrician/ Internist	5%	*									
Lab Work	5%	*									
Physiatrist	5%	*									
Dev. Pediatrician	5%	*									
Neurologist	5%	*									
EEG	5%	*									
Pulmon-ologist	5%	*									
Swallow Study	5%	*									
Ophthal-mologist	5%	*									
Orthopedist	5%	*									
X-rays Foot, Hips, Knee	5%	*									
Scoliosis Screening	5%	*									
Nutritionist	5%	*									
Mayo Clinic Eval Travel	4%										
Duke Eval	5%										
Duke Eval Travel	4%										
Foot Surgery	5%	*									
Serial Casting	5%	*									
Additional PT	4%	*									
OT Eval	4%	*									
OT	4%	*	M								
PT Eval	4%	*									
PT	4%	*	M	14,355.00	12,045.00	12,045.00					
ST Eval	4%	*									
ST	4%	*	M								
Feeding Specialist	4%										
Hippotherapy	4%			450.00	450.00	450.00	450.00	450.00			
Helmet	4%			27.50	27.50	27.50	27.50				



**Appendix A: Items of Compensation for Y.M.B.**

ITEMS OF COMPENSATION	G.R.	*	M	Compensation Year 12	Compensation Year 13	Compensation Year 14	Compensation Year 15	Compensation Year 16	Compensation Year 17	Compensation Year 18	Compensation Year 19
				2029	2030	2031	2032	2033	2034	2035	2036
Special Needs Car Seat	4%										
Bruno Seating System	4%							10,250.00	1,464.29	1,464.29	1,464.29
Seating System Maint	4%			166.67	166.67	166.67	166.67	166.67	166.67	166.67	166.67
Case Mngt	4%		M	10,080.00	10,080.00	10,080.00	10,080.00	10,080.00	6,720.00	6,720.00	6,720.00
Att. Care (School Days)	4%		M	19,656.00	19,656.00	19,656.00	19,656.00	17,384.64	17,384.64	17,384.64	17,384.64
Att. Care (Non School Days)	4%		M	38,016.00	38,016.00	38,016.00	38,016.00	33,623.04	33,623.04	33,623.04	33,623.04
Respite	4%		M	4,536.00	4,536.00	4,536.00	4,536.00	4,011.84	4,011.84	4,011.84	4,011.84
Home Care	4%		M								
Day Program	4%		M								
Lost Future Earnings											
Pain and Suffering											
Past Unreimbursable Expenses											
North Carolina Medicaid Lien											
Colorado Medicaid Lien											
Pennsylvania Medicaid Lien											
<b>Annual Totals</b>				<b>98,826.21</b>	<b>96,787.53</b>	<b>96,891.33</b>	<b>84,950.13</b>	<b>88,095.87</b>	<b>75,612.00</b>	<b>75,727.68</b>	<b>75,847.44</b>

Note: Compensation Year 1 consists of the 12 month period following the date of judgment.  
 Compensation Year 2 consists of the 12 month period commencing on the first anniversary of the date of judgment.  
 As soon as practicable after entry of judgment, respondent shall make the following payment to the court-appointed guardian(s)/conservators(s) of the estate of Y.M.B. for the benefit of Y.M.B., for lost future earnings (\$801,523.55), pain and suffering (\$250,000.00), and Yr 1 life care expenses (\$209,400.51): \$1,260,924.06.  
 As soon as practicable after entry of judgment, respondent shall make the following payment to petitioner for past un-reimbursable expenses: \$13,288.47.  
 As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of North Carolina, as reimbursement of the state's Medicaid lien: \$32,448.05.  
 As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of Colorado, as reimbursement of the state's Medicaid lien: \$7,457.08.  
 As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the Commonwealth of Pennsylvania, as reimbursement of the state's Medicaid lien: \$4,285.90.  
 Annual amounts payable through an annuity for future Compensation Years follow the anniversary of the date of judgment.  
 Annual amounts shall increase at the rates indicated in column "G.R." above, compounded annually from the date of judgment.  
 Items denoted with an asterisk (\*) covered by health insurance and/or Medicare.  
 Items denoted with an "M" payable in 12 monthly installments at the discretion of respondent.



**Appendix A: Items of Compensation for Y.M.B.**

ITEMS OF COMPENSATION	G.R.	*	M	Compensation Year 20 2037	Compensation Years 21-22 2038-2039	Compensation Year 23 2040	Compensation Year 24 2041	Compensation Year 25 2042	Compensation Year 26 2043	Compensation Year 27 2044	Compensation Year 28 2045
Kepra	5%	*									
Diastat	5%	*									
Simply Thick	4%		M	944.33	944.33	944.33	944.33	944.33	944.33	944.33	944.33
Stroller	4%										
Bathtub Bench/ Shower Chair	4%			40.98	40.98	40.98	40.98	40.98	40.98	40.98	40.98
Exercise Mat	4%			76.21	76.21	76.21	76.21	76.21	76.21	76.21	76.21
Treadmill	4%			99.99	99.99	99.99	99.99	99.99	99.99	99.99	99.99
Floor Scooter	4%			69.19	69.19	69.19	69.19	69.19	69.19	69.19	69.19
Peanut Ball	4%			8.07	8.07	8.07	8.07	8.07	8.07	8.07	8.07
Balance Ball	4%			6.65	6.65	6.65	6.65	6.65	6.65	6.65	6.65
Nesting Steps	4%			28.92	28.92	28.92	28.92	28.92	28.92	28.92	28.92
Assistive Devices	4%			200.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
Therapeutic Equip	4%			200.00	200.00	200.00	200.00	200.00	200.00	200.00	200.00
iPad	4%			82.50	82.50	82.50	82.50	82.50	82.50	82.50	82.50
iPad Case	4%			22.49	22.49	22.49	22.49	22.49	22.49	22.49	22.49
iPad Screen Protector	4%			12.50	12.50	12.50	12.50	12.50	12.50	12.50	12.50
Internet Service for iPad	4%		M	359.88	359.88	359.88	359.88	359.88	359.88	359.88	359.88
Diapers	4%		M								
Incontinence Briefs	4%		M	416.43	416.43	416.43	416.43	416.43	416.43	416.43	416.43
Wipes	4%		M	153.30	153.30	153.30	153.30	153.30	153.30	153.30	153.30
Skin Barrier Cream	4%		M	98.04	98.04	98.04	98.04	98.04	98.04	98.04	98.04
Gloves	4%		M	81.50	81.50	81.50	81.50	81.50	81.50	81.50	81.50
Hand Sanitizer	4%		M	91.08	91.08	91.08	91.08	91.08	91.08	91.08	91.08
CHUX	4%		M	164.40	164.40	164.40	164.40	164.40	164.40	164.40	164.40
Mattress Underpads	4%			41.28	41.28	41.28	41.28	41.28	41.28	41.28	41.28
AFOs	4%	*									
Manual WC	4%	*									
WC Maint	4%	*									
WC Cushion	4%			157.50	157.50	157.50	157.50	157.50	157.50	157.50	157.50
Cushion Cover	4%			84.00	84.00	84.00	84.00	84.00	84.00	84.00	84.00
WC Pack	4%			12.50	12.50	12.50	12.50	12.50	12.50	12.50	12.50
Portable Ramp	4%			33.90	33.90	33.90	33.90	33.90	33.90	33.90	33.90
Home Mods	4%			81,080.00							

**Appendix A: Items of Compensation for Y.M.B.**

ITEMS OF COMPENSATION	G.R.	*	M	Compensation Year 20 2037	Compensation Years 21-22 2038-2039	Compensation Year 23 2040	Compensation Year 24 2041	Compensation Year 25 2042	Compensation Year 26 2043	Compensation Year 27 2044	Compensation Year 28 2045
Special Needs Car Seat	4%										
Bruno Seating System	4%			1,464.29	1,464.29	1,464.29	1,464.29	1,464.29	1,464.29	1,464.29	1,464.29
Seating System Maint	4%			166.67	166.67	166.67	166.67	166.67	166.67	166.67	166.67
Case Mngt	4%		M	6,720.00	6,720.00	3,360.00	3,360.00	3,360.00	3,360.00	3,360.00	3,360.00
Att. Care (School Days)	4%		M								
Att. Care (Non School Days)	4%		M								
Respite	4%		M								
Home Care	4%		M	184,831.20	184,831.20	184,831.20	184,831.20	184,831.20	184,831.20	184,831.20	184,831.20
Day Program	4%		M	27,438.00	27,438.00	27,438.00	27,438.00	27,438.00	27,438.00	27,438.00	27,438.00
Lost Future Earnings											
Pain and Suffering											
Past Unreimbursable Expenses											
North Carolina Medicaid Lien											
Colorado Medicaid Lien											
Pennsylvania Medicaid Lien											
<b>Annual Totals</b>				<b>314,177.12</b>	<b>232,997.12</b>	<b>229,653.08</b>	<b>229,732.88</b>	<b>229,828.76</b>	<b>229,984.40</b>	<b>230,112.08</b>	<b>230,175.92</b>

Note: Compensation Year 1 consists of the 12 month period following the date of judgment.

Compensation Year 2 consists of the 12 month period commencing on the first anniversary of the date of judgment.

As soon as practicable after entry of judgment, respondent shall make the following payment to the court-appointed guardian(s)/ conservators(s) of the estate of Y.M.B. for the benefit of Y.M.B., for lost future earnings (\$801,523.55), pain and suffering (\$250,000.00), and Yr 1 life care expenses (\$209,400.51): \$1,260,924.06.

As soon as practicable after entry of judgment, respondent shall make the following payment to petitioner for past un-reimbursable expenses: \$13,288.47.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of North Carolina, as reimbursement of the state's Medicaid lien: \$32,448.05.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of Colorado, as reimbursement of the state's Medicaid lien: \$7,457.08.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the Commonwealth of Pennsylvania, as reimbursement of the state's Medicaid lien: \$4,285.90.

Annual amounts payable through an annuity for future Compensation Years follow the anniversary of the date of judgment.

Annual amounts shall increase at the rates indicated in column "G.R." above, compounded annually from the date of judgment.

Items denoted with an asterisk (\*) covered by health insurance and/or Medicare.

Items denoted with an "M" payable in 12 monthly installments at the discretion of respondent.





**Appendix A: Items of Compensation for Y.M.B.**

ITEMS OF COMPENSATION	G.R.	*	M	Compensation Year 29	Compensation Year 30	Compensation Year 31	Compensation Year 32	Compensation Year 33	Compensation Year 34	Compensation Year 35	Compensation Years 36-62
				2046	2047	2048	2049	2050	2051	2052	2053-2079
Special Needs Car Seat	4%										
Bruno Seating System	4%			1,464.29	1,464.29	1,464.29	1,464.29	1,464.29	1,464.29	1,464.29	1,464.29
Seating System Maint	4%			166.67	166.67	166.67	166.67	166.67	166.67	166.67	166.67
Case Mngt	4%		M	3,360.00	3,360.00	3,360.00	3,360.00	3,360.00	3,360.00	3,360.00	3,360.00
Att. Care (School Days)	4%		M								
Att. Care (Non School Days)	4%		M								
Respite	4%		M								
Home Care	4%		M	184,831.20	184,831.20	184,831.20	184,831.20	184,831.20	184,831.20	184,831.20	184,831.20
Day Program	4%		M	27,438.00	27,438.00	27,438.00	27,438.00	27,438.00	27,438.00	27,438.00	27,438.00
Lost Future Earnings											
Pain and Suffering											
Past Unreimbursable Expenses											
North Carolina Medicaid Lien											
Colorado Medicaid Lien											
Pennsylvania Medicaid Lien											
<b>Annual Totals</b>				<b>230,271.68</b>	<b>230,367.56</b>	<b>230,427.44</b>	<b>230,491.28</b>	<b>230,523.20</b>	<b>230,555.12</b>	<b>228,846.80</b>	<b>226,628.30</b>

Note: Compensation Year 1 consists of the 12 month period following the date of judgment.

Compensation Year 2 consists of the 12 month period commencing on the first anniversary of the date of judgment.

As soon as practicable after entry of judgment, respondent shall make the following payment to the court-appointed guardian(s)/ conservators(s) of the estate of Y.M.B. for the benefit of Y.M.B., for lost future earnings (\$801,523.55), pain and suffering (\$250,000.00), and Yr 1 life care expenses (\$209,400.51): \$1,260,924.06.

As soon as practicable after entry of judgment, respondent shall make the following payment to petitioner for past un-reimbursable expenses: \$13,288.47.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of North Carolina, as reimbursement of the state's Medicaid lien: \$32,448.05.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of Colorado, as reimbursement of the state's Medicaid lien: \$7,457.08.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the Commonwealth of Pennsylvania, as reimbursement of the state's Medicaid lien: \$4,285.90.

Annual amounts payable through an annuity for future Compensation Years follow the anniversary of the date of judgment.

Annual amounts shall increase at the rates indicated in column "G.R." above, compounded annually from the date of judgment.

Items denoted with an asterisk (\*) covered by health insurance and/or Medicare.

Items denoted with an "M" payable in 12 monthly installments at the discretion of respondent.

Appendix A: Items of Compensation for Y.M.B.

ITEMS OF COMPENSATION	G.R.	*	M	Compensation Year 63 2080	Compensation Years 64-Life 2081-Life
ACA Premium	5%		M		
ACA MOP	5%				
Medicare Part B Premium	5%		M	1,608.00	1,608.00
Medigap	5%		M	3,143.52	3,143.52
Medicare Part D	5%		M	649.00	649.00
Pediatrician/ Internist	5%	*			
Lab Work	5%	*			
Physiatrist	5%	*			
Dev. Pediatrician	5%	*			
Neurologist	5%	*			
EEG	5%	*			
Pulmon-ologist	5%	*			
Swallow Study	5%	*			
Ophthal-mologist	5%	*			
Orthopedist	5%	*			
X-rays Foot, Hips, Knee	5%	*			
Scoliosis Screening	5%	*			
Nutritionist	5%	*			
Mayo Clinic Eval Travel	4%				
Duke Eval	5%				
Duke Eval Travel	4%				
Foot Surgery	5%	*			
Serial Casting	5%	*			
Additional PT	4%	*			
OT Eval	4%	*			
OT	4%	*	M	123.75	123.75
PT Eval	4%	*			
PT	4%	*	M	123.75	123.75
ST Eval	4%	*		300.00	300.00
ST	4%	*	M	492.00	492.00
Feeding Specialist	4%				
Hippotherapy	4%				
Helmet	4%				

**Appendix A: Items of Compensation for Y.M.B.**

ITEMS OF COMPENSATION	G.R.	*	M	Compensation	Compensation
				Year 63	Years 64-Life
				2080	2081-Life
Keppra	5%	*			
Diastat	5%	*		400.00	400.00
Simply Thick	4%		M	944.33	944.33
Stroller	4%				
Bathtub Bench/ Shower Chair	4%			40.98	40.98
Exercise Mat	4%			76.21	76.21
Treadmill	4%			99.99	99.99
Floor Scooter	4%			69.19	69.19
Peanut Ball	4%			8.07	8.07
Balance Ball	4%			6.65	6.65
Nesting Steps	4%			28.92	28.92
Assistive Devices	4%			100.00	100.00
Therapeutic Equip	4%			200.00	200.00
iPad	4%			82.50	82.50
iPad Case	4%			22.49	22.49
iPad Screen Protector	4%			12.50	12.50
Internet Service for iPad	4%		M	359.88	359.88
Diapers	4%		M		
Incontinence Briefs	4%		M	416.43	416.43
Wipes	4%		M	153.30	153.30
Skin Barrier Cream	4%		M	98.04	98.04
Gloves	4%		M	81.50	81.50
Hand Sanitizer	4%		M	91.08	91.08
CHUX	4%		M	164.40	164.40
Mattress Underpads	4%			41.28	41.28
AFOs	4%	*			
Manual WC	4%	*			
WC Maint	4%	*			
WC Cushion	4%			157.50	157.50
Cushion Cover	4%			84.00	84.00
WC Pack	4%			12.50	12.50
Portable Ramp	4%			33.90	33.90
Home Mods	4%				

**Appendix A: Items of Compensation for Y.M.B.**

ITEMS OF COMPENSATION	G.R.	*	M	Compensation Year 63 2080	Compensation Years 64-Life 2081-Life
Special Needs Car Seat	4%				
Bruno Seating System	4%			1,464.29	1,464.29
Seating System Maint	4%			166.67	166.67
Case Mngt	4%		M	3,360.00	3,360.00
Att. Care (School Days)	4%		M		
Att. Care (Non School Days)	4%		M		
Respite	4%		M		
Home Care	4%		M	184,831.20	209,188.80
Day Program	4%		M	27,438.00	
Lost Future Earnings					
Pain and Suffering					
Past Unreimbursable Expenses					
North Carolina Medicaid Lien					
Colorado Medicaid Lien					
Pennsylvania Medicaid Lien					
Annual Totals				227,485.82	224,405.42

Note: Compensation Year 1 consists of the 12 month period following the date of judgment.

Compensation Year 2 consists of the 12 month period commencing on the first anniversary of the date of judgment.

As soon as practicable after entry of judgment, respondent shall make the following payment to the court-appointed guardian(s)/ conservators(s) of the estate of Y.M.B. for the benefit of Y.M.B., for lost future earnings (\$801,523.55), pain and suffering (\$250,000.00), and Yr 1 life care expenses (\$209,400.51): \$1,260,924.06.

As soon as practicable after entry of judgment, respondent shall make the following payment to petitioner for past un-reimbursable expenses: \$13,288.47.

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As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of Colorado, as reimbursement of the state's Medicaid lien: \$7,457.08.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the Commonwealth of Pennsylvania, as reimbursement of the state's Medicaid lien: \$4,285.90.

Annual amounts payable through an annuity for future Compensation Years follow the anniversary of the date of judgment.

Annual amounts shall increase at the rates indicated in column "G.R." above, compounded annually from the date of judgment.

Items denoted with an asterisk (\*) covered by health insurance and/or Medicare.

Items denoted with an "M" payable in 12 monthly installments at the discretion of respondent.