

**DRAFT/FOR INFORMATION ONLY**

**CLAIM FOR CUSTODIAL CARE BENEFITS FORM**

**Instructions and Applicable Procedures:**

- A. This claim form may only be used by eligible Class Members who have not excluded themselves from (or "opted out" of) the Settlement Agreement reached concerning the class action lawsuit known as *Basey, et al. v. Florida Birth-Related Neurological Injury Compensation Association*, Hillsborough County, Circuit Court Case No. 06-CA-004603. A copy of the Settlement Agreement is posted on NICA's internet website at [www.nica.com](http://www.nica.com). To the extent, if any, that the requirements of this claim form are inconsistent with the terms of the Settlement Agreement, the terms of the Settlement Agreement shall control.
- B. If the Class Member seeks monetary payment from NICA for medically necessary and reasonable residential and custodial care and services: (a) provided **before September 18, 2012** (i.e., the Effective Date of the Settlement Agreement); or (b) provided both before and after **September 18, 2012** (i.e., the Effective Date of the Settlement Agreement), the Class Member must do the following:
1. Submit the originally completed claim form to NICA, at the following address:

NICA  
c/o Kathe Alexander  
P.O. Box 14567  
Tallahassee, FL 32317
  2. **The claim form must be postmarked no later than [DATE], 20\_\_** (i.e., 120 days after the date of the Final Judgment and all deadlines to seek available appellate remedies have expired).
- C. If the Class Member seeks monetary payment from NICA only for medically necessary and reasonable residential and custodial care and services provided **after September 18, 2012** (i.e., the Effective Date of the Settlement Agreement), the completed claim form to NICA must be mailed to the address listed in paragraph B.1 above and postmarked no later than 30 days from the date on which the Class Member begins providing such medically necessary and reasonable residential and custodial care and services for which the Class Member expects to receive monetary payments from NICA going forward.
- D. If insufficient space is provided to answer the questions contained in this claim form, please answer the question on a separate sheet of paper and attach it to your fully completed claim form.

E. If you are unsure about how to answer any of the questions on this claim form, you may contact Class Counsel for additional information:

- Richard A. Gilbert, Esquire and David M. Caldevilla, Esquire, de la Parte & Gilbert, P.A., 101 E. Kennedy Blvd., Suite 2000, Tampa, FL 33602; Telephone: (813)229-2775; Website: [www.dgfirm.com](http://www.dgfirm.com); or
- J. Daniel Clark, Esquire, Clark & Martino, P.A., 3407 W. Kennedy Blvd., Tampa, FL 33609; Telephone: (813) 879-0700; Website: [www.clarkmartino.com](http://www.clarkmartino.com).

F. After NICA receives a Class Member's fully completed claim form, the following procedures apply:

1. NICA must make a written determination within 45 days either to: (a) pay the requested amount; or (b) pay less than all of the requested amount; or (c) refuse payment.
2. Within that 45-day period, NICA must provide written notice of that determination, and the reasons for that determination, to the Class Member by Federal Express, UPS, certified U.S. mail, or any other receipted mail delivery.
3. If NICA offers to pay less than all of the requested amount or refuses to make any payment, the Class Member may file a claim with the Division of Administrative Hearings ("**DOAH**") within the Class Member's pre-existing DOAH case against NICA, in the form of a petition to determine benefits using the form posted on NICA's website at [www.nica.com](http://www.nica.com), and must file that claim within 45 of the date on which the Class Member received NICA's written notification of its decision.
4. The Class Member's petition will be resolved by a DOAH Administrative Law Judge ("**ALJ**") pursuant to Chapter 120, Florida Statutes, and the provisions of §766.301, *et. seq.* (Supp. 1988-2001), Florida Statutes, consistent with the terms of the Settlement Agreement. Any final order issued by the ALJ will be subject to appeal in accordance with Section 120.68, Florida Statutes.
5. In the DOAH proceedings, in no event shall the Class Member be entitled to payment for medically necessary and reasonable residential and custodial care and services that is above or beyond the limits of the disputed amount, or inconsistent with any of the terms set forth in the Settlement Agreement.
6. Pending the outcome of the DOAH proceedings, NICA must pay that portion, if any, of the Class Member's claim which is not in dispute.

**Claim Form:**

1. Please identify the name(s) and address(es) of the Class Member(s) submitting this claim form.

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2. Please identify the relationship of the Class Member(s) (i.e., father, mother, or guardian) to the child born with a "birth-related neurological injury" (the "NICA Child"), who received and/or will receive medically necessary and reasonable residential and custodial care and services from the Class Member(s).

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3. Please identify the name and DOAH case number associated with the Class Member's original petition to receive benefits from NICA for the NICA Child.

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4. In order to confirm that you are a member of the Class, please answer "Yes" or "No" for each of the following questions:

- (a) Are you the parents and/or legal guardians of a NICA Child born with a "birth-related neurological injury" in the State of Florida during the time period of January 1, 1989 through June 6, 2002? *(If the answer to (a) is "No," then you are not a Class Member, and you are ineligible to participate in the Settlement Agreement.)*

Yes \_\_\_\_\_ No \_\_\_\_\_

- (b) Have you ever obtained a final order which imposed upon NICA the "continuing obligation under the provisions of Section 766.31, Florida Statutes, to pay future expenses as incurred," or other substantially similar words to that effect? *(If the answer to (b) is "No," then you are not a Class Member, and you are ineligible to participate in the Settlement Agreement.)*

Yes \_\_\_\_\_ No \_\_\_\_\_

- (c) After that final order was issued, did you ever provide any medically necessary and reasonable residential and custodial care and services to

the NICA Child without receiving full payment from NICA for such care and services? *(If the answer to (c) is "No," then you are ineligible under the Settlement Agreement to apply for benefits for residential and custodial care provided in the past. \**

Yes \_\_\_\_\_ No \_\_\_\_\_

**\*Should you provide medically necessary residential and custodial care and services to a NICA Child in the future, you are still eligible to apply for benefits provided under the Settlement Agreement concerning those future services.**

5. Please answer the following questions for any and all medically necessary and reasonable residential and custodial care and services provided by the Class Member(s) during the time period of May 25, 2005 through **September 18, 2012** (i.e., the Effective Date of the Settlement Agreement):

(a) During the time period of May 25, 2005 through **September 18, 2012** (i.e., the Effective Date of the Settlement Agreement), on average, approximately how many hours per month did the Class Member(s) actually provide medically necessary and reasonable residential and custodial care and services to the NICA Child, without compensation from NICA or any other third-party?

**Answer:** During the time period of May 25, 2005 through **September 18, 2012** (i.e., the Effective Date of the Settlement Agreement), on average, the Class Member(s) provided medically necessary and reasonable residential and custodial care and services to the NICA Child for approximately \_\_\_\_\_ hours per month, without compensation from NICA or any other third-party.

(b) If the Class Member(s) are seeking additional monetary payments for providing medically necessary and reasonable residential and custodial care and services to the NICA Child before May 25, 2005, did the Class Member(s) ever request NICA to compensate them for such care and services before May 25, 2005?

Yes \_\_\_\_\_ No \_\_\_\_\_

(c) If the answer to (b) was "Yes," how and when did the Class Member(s) make that request to NICA?

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- (d) If the answer to Question 5(b) was "Yes," is there any written evidence that the Class Member(s) made such a request to NICA prior to May 25, 2005? (*Examples of such written evidence are letters, memoranda, faxes, or e-mails actually submitted to NICA before May 25, 2005.*)

Yes \_\_\_\_\_ No \_\_\_\_\_

- (e) If the answer to Question 5(d) was "Yes," please attach a copy of that written evidence to this claim form.

- (f) If the answer to Question 5(d) was "No," do you want NICA to consider this claim form to be a public records request to inspect and copy NICA's correspondence from the Class Member(s), in order to determine whether such written evidence is in NICA's possession? (*If the answer to (f) is "Yes," NICA will send you a written response to this request within 7 days of receiving it. If your answers to both (d) and (f) are "No," then any monetary benefits awarded will be limited to medically necessary and reasonable residential and custodial care and services provided to the neurologically injured child on or after May 25, 2005.*)

Yes \_\_\_\_\_ No \_\_\_\_\_ N.A. \_\_\_\_\_

- (g) If the answer to Question 5(d) or (f) is "Yes," on average, approximately how many hours per month did the Class Member(s) provide medically necessary and reasonable residential and custodial care and services to the NICA Child, without compensation from NICA or other third-party, during the time period between (1) the date of the Class Member's written request or May 25, 2001, whichever is later, and (2) May 25, 2005?

**Answer:** Between those two dates, on average, the Class Member(s) provided residential and custodial care and services to the NICA Child for approximately \_\_\_\_\_ hours per month, without compensation from NICA or other third-party.

6. Please answer the following questions if you are seeking a monetary payment for residential and custodial care and services which were provided and/or will be provided **after September 18, 2012** (i.e., the Effective Date of the Settlement Agreement):

- (a) Please identify the date after **September 18, 2012**, on which the Class Member(s) began providing, or will begin providing, residential and custodial care and services to the NICA Child?

**Answer:** The Class Member(s) began providing, or will begin providing, residential and custodial care and services to the NICA Child on the date of \_\_\_\_\_.

- (b) Please identify the number of hours per day of residential and custodial care and services that the Class Member(s) contend are medically necessary and reasonable for the NICA Child.

**Answer:** The Class Member(s) contend that it is medically necessary and reasonable for our NICA Child to receive \_\_\_\_\_ hours per day of residential and custodial care and services from the Class Member(s).

7. Please identify the name of the Class Member(s) who actually provided, and/or actually will be providing, the medically necessary and reasonable residential and custodial care and services to the NICA Child, referenced in the answers to Questions 4, 5, and 6 herein.

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8. Are all of the residential and custodial care and services described in the answers to Questions 4, 5, and 6 of the type normally rendered by a trained professional attendant which is beyond the scope of child care and services normally and gratuitously provided by family members or guardians to a normal, healthy child without neurological injuries?

Yes \_\_\_\_\_ No \_\_\_\_\_

9. If the answer to Question 8 is "No," approximately what percentage of the residential and custodial care and services described in the answers to Questions 4, 5, and 6 is within the scope of child care and services normally and gratuitously provided by family members or guardians to a normal, healthy child without neurological injuries?

**Answer:** Approximately \_\_\_\_\_% of the residential and custodial care and services described in the answers to Questions 4, 5, and 6 is within the scope of child care and services normally and gratuitously provided by family members or guardians to a normal, healthy child without neurological injuries.

10. Are the residential and custodial care and services described in the answers to Questions 4, 5, and 6 performed, and/or will they be performed, at the direction and control of a physician?

Yes \_\_\_\_\_ No \_\_\_\_\_

11. If the answer to Question 10 is "Yes," please identify the name, address, and telephone number of the physician(s) referenced in Question 10.

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12. Were any of the medically necessary and reasonable residential and custodial care and services described in the answers to Questions 4, 5, and 6 provided by, and/or will they be provided by, any third-party instead of by the Class Member(s)?

Yes \_\_\_\_\_ No \_\_\_\_\_

13. If the answer to Question 12 is "Yes," please answer the following questions:

- a. What is the third-party's name, address, and telephone number?

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- b. Did NICA pay any benefits to that third-party or reimburse the Class Member(s) for any medically necessary and reasonable residential and custodial care and services described in the answers to Questions 4, 5, and 6?

Yes \_\_\_\_\_ No \_\_\_\_\_

14. With respect to the answers to Questions 4, 5, and 6, did the Class Member(s) leave prior employment in order to provide the residential and custodial care and services to the NICA Child?

Yes \_\_\_\_\_ No \_\_\_\_\_

15. If the answer to Question 14 is "Yes," please identify the Class Member's prior employer, the employer's address, the Class Member's job title, and the dates of employment.

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16. Are either or both the Class Members a professional health care provider?

Yes \_\_\_\_\_ No \_\_\_\_\_

17. If the answer to Question 16 is "Yes," please identify the type of professional health care provider that each Class Member is, and the typical number of hours per day of professional services provided by the Class Member(s) which are within the scope of their professional health care field and which are medically necessary and reasonable for the NICA Child?

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**I affirm, under penalty of perjury, that the foregoing claim form does not contain any false, incomplete or misleading information, that I have not omitted or concealed any material information, and that I have not already received reimbursement from a third party for the residential and custodial care and services described herein. This claim form is being submitted for payment by NICA under Statute 766.31, F.S., and I understand that NICA is materially and substantially relying upon this affirmation in processing this claim form.**

\_\_\_\_\_  
Print Class Member's Name

SAMPLE-DO NOT SIGN

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Telephone Number

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Date

\_\_\_\_\_  
Print Class Member's Name

SAMPLE-DO NOT SIGN

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Signature

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Address

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City, State, Zip

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Email Address

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Telephone Number

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Date