

**FLORIDA BIRTH-RELATED NEUROLOGICAL INJURY  
COMPENSATION ASSOCIATION  
BOARD MEETING AGENDA**

December 9, 2021, 10:00 a.m.  
Video Conference Call Meeting

**Note: There will be a 30-minute lunch break from 12:15 to 12:45**

1. Call to Order and Welcome
2. [Minutes.....K](#)
3. Bank, Investments and Other Administrative Matters-Authorized Signatures
4. Executive Director’s Report
5. [OIR Report.....L](#)
6. [Reserve Update.....M](#)
7. Legislative Update
8. **Executive Session 11:30 - 12:15**

Attendees: Jim DeBeaugrine, MPA, NICA Board Chair  
Renee Oliver, NICA Board Member  
Julie Ann Zemaitis DeCesare, M.D., NICA Board Member  
Robert A. London, M.D., NICA Board Member  
Narendra Dereddy, M.D., NICA Board Member  
Melissa Jaacks, Executive Director  
Steve Ecenia, NICA General Counsel, Rutledge Ecenia  
Tana Story, Counsel, Rutledge Ecenia  
Marty Goldberg, Counsel, Lash and Goldberg  
Jonathan Siegelaub, Counsel, Lash and Goldberg  
Daryl Saylor, Counsel, Lash and Goldberg

9. [Budget Presentation.....N](#)

10. **Public Testimony**

11. **Board Votes 1:40 – 2:20**

12. Proposed Meeting Dates

- March 10 or 17, 2022 – Teleconference Meeting?
- August 25, 2022 – In Person Meeting?

**Adjourn**

# **Agenda Item # 2 (Tab K)**

## **Minutes**

MINUTES OF THE MEETING  
THE FLORIDA BIRTH-RELATED  
NEUROLOGICAL INJURY COMPENSATION ASSOCIATION

October 28, 2021  
Virtual Meeting via Zoom Video and Zoom Conference Call

The October 28, 2021 meeting of the Board of Directors of the Florida Birth-Related Neurological Injury Compensation Association was called to order by Chair, Jim DeBeaugrine.

Board members present and constituting a quorum were:

Jim DeBeaugrine, MPA  
Renee Oliver  
Julie Ann Zemaitis DeCesare, MD  
Robert A. London, M.D.  
Narendra Dereddy, M.D.

Also present:

Kenney Shipley, NICA Executive Director  
Tim Daughtry, NICA Deputy Director  
Steve Ecenia, NICA General Counsel  
Tana Story, NICA General Counsel's Office  
Matt Dufek, Kikoda/NICA's IT Contractor  
Linda Nelson, NICA Compliance  
Melissa Jaacks  
Tasha Carter, Florida Insurance Consumer Advocate  
Denishia Sword, Office of the Insurance Consumer Advocate  
Sheryl Parker, Office of Insurance Regulation  
Robert Ridenour, Office of Insurance Regulation  
Michael Dobson, Department of Financial Services  
Russell Perkins, Thomas Howell Ferguson  
Mark Crawshaw Ph.D., Madison Consulting  
Choya Everett, Madison Consulting  
Felicia Bennett, Wilshire Consulting  
Katy Wojciechowski, NICA Investment Consultant  
Carol Marbin Miller, Miami Herald  
Patrick McNamara, de la Parte & Gilbert  
Michelle Glisar  
Robin Hagerstrom  
Becky Griffith  
Ashley Hammer  
Patricia Parrish  
Ruth Jacques

Paul Whitfield  
Chelsea Reyes  
Charity Butler  
Michelle Perez  
Nicole Snipes  
Christine Smith  
David Morgan  
Esther Morgan  
Sabrina Jostes  
Barbara Lopez Avila  
Dr. Jackie Amorim  
Sherri Cruz  
Eddie Reyes  
Ann Goshorn  
James Johnson  
Luke Harrison  
Jennifer Pham  
Rachel Rexford  
Fatima Cruz  
Dan Bookhout  
Jennifer Bookhout  
Christiana Buffington  
Virginia Prue  
Laura Sokalski  
Maeva Da Ru-Rodriguez  
Michael Finney  
Jorge Rodriguez  
Cassidy Mueller  
John Romine  
Ashley Mathis  
Meghan Stacy  
Alex Robbins  
Amber Parker  
Tanya Sheffield  
Meribel Roman  
Sherri Savage  
Leanne Lewis  
Eric Fuller

\*\*Attendees who did not provide full names, were only logged in briefly or who did not identify themselves are not included on this list.

The Chair introduced new Board member, Narendra Dereddy, M.D.

The Chair then recognized NICA's General Counsel, Steve Ecenia. Mr. Ecenia announced that there would be no need for an executive session at the meeting. He requested an executive session at the next meeting. The request was granted.

The Chair reminded the Board members that they all have NICA email addresses that should be used for all NICA business.

### **MINUTES**

The Chair asked for a motion to approve the minutes of the September 16, 2021 Board meeting.

**A motion was made to approve the minutes as drafted. The motion passed unanimously.**

### **INTERIM EXECUTIVE DIRECTOR**

The Chair reminded the Board that Kenney Shipley was retiring and recommended hiring an interim executive director to be followed by a search for a permanent executive director. The Chair recommended hiring Melissa Jaacks as interim executive director and asked the Board to allow him to negotiate a six month contract.

Ms. Jaacks introduced herself and discussed her background and experience.

**A motion was made to allow the Chair to proceed with negotiating contract with Melissa Jaacks. The motion passed unanimously.**

### **OPERATIONAL DOCUMENTS**

#### **Plan of Operation**

Tana Storey with the General Counsel's office was recognized to present several operational documents. She began with the revised Plan of Operation. The Chair advised the Board that a vote would not be taken until after public comment. If approved by the Board, the Plan of Operation would be submitted to the Office of Insurance Regulation for approval.

Ms. Storey provided an overview of the revised Plan of Operation which included changes pursuant to Senate Bill 1786. Several scrivener's errors had been noted after the meeting materials had been sent to the Board. Ms. Storey highlighted the corrections.

**\*\*A vote on this topic was taken after public comment\*\***

#### **Draft Revised Benefit Handbook and Benefits List**

The Chair advised the Board that Ms. Storey would be presenting the draft benefit handbook and draft benefits list. The vote that would be taken would be to publish the draft benefit

handbook and benefits list on the NICA website for the public to provide comments and suggestions.

Ms. Storey followed with a presentation of the draft revised benefit handbook and benefits list. The draft handbook had been updated to include a clearer picture of the benefits available as well as to address additional requirements of Senate Bill 1786.

**\*\*A vote on this topic was taken after public comment\*\***

### **Policies and Procedures**

Ms. Storey presented and discussed the revised Personnel Policies and Procedures Manual. The policies are NICA's internal operating policies and procedures for staff. The revisions included the addition the Code of Ethics from Senate Bill 1786 and updated travel policies to correspond with Chapter 112 of the Florida Statutes. Additional forms for employees and board members were also included.

Ms. Oliver asked about the ombudsman that was listed at the bottom of page one. This was discussed during the legislative session but was not included in the final bill. The Chair would like to discuss this at the next board meeting.

**\*\*A vote on this topic was taken after public comment\*\***

### **November Report to the Governor, Legislature and Chief Financial Officer**

Ms. Storey presented and discussed a draft of the new report required by Senate Bill 1786. The legislation requires that on or before November 1, 2021, and by each November 1 thereafter, the association shall submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Financial Officer. Ms. Storey summarized the information that is required to be included in the report.

Ms. Storey detailed several scrivener's errors in the draft that would be corrected prior to filing the report.

The Chair asked for clarification that none of the scrivener's errors and edits to the draft report were substantive changes but were formatting and clarifying in nature. Ms. Storey confirmed this.

Dr. London asked if the total number of active participating families could be included in the report. Ms. Storey and Ms. Shipley confirmed that this data could be included as of 6/30/2021. The Chair asked that this information be included.

Dr. Dereddy asked about the average turnaround time for paying or denying compensation for expenses. Mark Crawshaw explained the procedures that were followed to calculate the average turnaround time.

A discussion followed regarding the average turn around time to process claims.

Ms. Oliver asked about decreasing the birth weight from 2,500 grams to 2,000 grams. There were two claims listed in the November report as being denied because they did not meet the birth weight threshold. The Chair asked staff to determine the number of claims that were in this category for the past five years to be discussed at the next meeting.

**\*\*A vote on this topic was taken after public comment\*\***

## **RESERVE EVALUATION**

Mark Crawshaw, Ph.D, of Madison Consulting followed with a presentation of the actuarial reserve evaluations for the quarters ending March 31, 2021 and June 30, 2021. Madison Consulting serves as the peer review actuarial firm for the quarterly reports prepared by Turner Consulting.

Dr. Crawshaw directed the Board's attention to NICA's audited financial statements and highlighted investments, claims reserve and net position. He pointed out that NICA's operating expenses are typically higher than assessments with investment income making up the difference. Increasing expenses would decrease investments and decrease the net position.

Dr. Crawshaw presented the June 30, 2021 actuarial reserve evaluation which included the results of the March 31, 2021 report. The legislative changes from Senate Bill 1786 were included in the claims reserve amounts with the exception of any changes pertaining to Medicaid. The assumptions regarding the interest discount rate and the rate of inflation had not changed from prior analyses which reflected a 1.5% differential between the two. There was no change recommended to the risk margin reserve of \$75.5 million.

A detailed summary of claims payments and reserves for periods from March 31, 2017 through June 30, 2021 was presented. The June 30, 2021 reserve for loss and loss adjustment expenses of \$1,081.1 was relatively unchanged from March 31, 2021. Exhibits were presented detailing the average reserves per claim and claim counts over time. The overall reserve had been increasing over time.

A discussion followed regarding claims paid versus claims expense.

**\*\*A vote on this topic was taken after public comment\*\***

## **INVESTMENTS**

### **Background and Roles**

NICA's internal investment consultant, Katy Wojciechowski, introduced herself and explained her role in NICA's investment program.

Felicia Bennett of Wilshire was introduced as NICA's external investment consultant. Ms. Bennett presented a company overview of Wilshire and their role in the investment program.

### **Investment Performance Update**

Ms. Wojciechowski discussed overall economic fundamentals, NICA's investment objectives and investment performance through June 30, 2021.

Ms. Bennett presented a peer group analysis and NICA's June 30, 2021 investment manager Watch List. One manager, Panagora Asset Management was on the Watch List due to their five year performance being below benchmark. It was recommended that NICA continue to monitor this manager.

Ms. Bennett followed with an investment update through September 30, 2021.

### **AUDITED FINANCIAL STATEMENTS**

Russell Perkins of Thomas Howell Ferguson presented the audited financial statements for the fiscal year ending June 30, 2021. He reminded the Board that his firm is engaged by the Board and they can reach out to him at any time. The significant balances on the Statement of Net Position were Investments at \$1.7 billion, Claims reserves at \$1.2 billion and Net Position at \$500 million. The change in net assets for the year was \$83 million.

**\*\*A vote on this topic was taken after public comment\*\***

### **PUBLIC TESTIMONY**

Steve Ecenia reminded everyone in attendance that the meeting continued to be recorded.

Several families of NICA participants addressed the Board regarding their experiences with NICA.

### **BOARD VOTES**

**A motion was made to adopt the Plan of Operation with the corrections of the scrivener's errors to be submitted to the Office of Insurance Regulation for approval. The motion passed unanimously.**

**A motion was made to publish the Draft Benefit Handbook and Benefits List on the NICA website for public comment. The motion passed unanimously.**

**A motion was made to adopt the revised Personnel Policies and Procedures manual. The motion passed unanimously.**



**A motion was made to approve the November report to the Governor, Legislature and Chief Financial Officer with the edits discussed during the meeting. The motion passed unanimously.**

**A motion was made to accept the March 31, 2021 and the June 30, 2021 actuarial reserve evaluations. The motion passed unanimously.**

**A motion was made to adopt the June 30, 2021 Audited Financial Statements. The motion passed unanimously.**

**OTHER BUSINESS**

Mrs. Oliver discussed the issue of the increased parental award and felt very strongly that this should be applied to parents of deceased children.

The Chair asked the staff to initiate whatever actuarial analysis may be needed to look at this issue going forward.

**ADJOURN**

There being no further business before the Association, the meeting was adjourned.

# **Agenda Item # 5 (Tab L)**

## **OIR Report**



CHIEF FINANCIAL OFFICER  
JIMMY PATRONIS  
STATE OF FLORIDA

October 18, 2021

Mr. Jim DeBeaugrine, Interim Chair  
Board of Directors  
Florida Birth-Related Neurological Injury Compensation Association  
P. O. Box 14567  
Tallahassee, FL 32302

Dear Chair DeBeaugrine:

Earlier this month, you were provided the Office of Insurance Regulation's (OIR) draft Market Regulation, Operational Audit, of the Florida Birth-Related Neurological Injury Compensation Association (NICA) program. You have since reviewed and accepted OIR's findings as submitted.

As you are aware, when issues regarding NICA came to light, I asked OIR to audit NICA to which they agreed and initiated this operational audit. The stories of parents, and their children, going through challenges in dealing with NICA were clearly symptomatic of a flawed program. That's why we needed OIR to take a look at the nuts-and-bolts of how NICA operates to determine where shortcomings existed.

The findings of this report are not be surprising and reaffirm many of the complaints families have publicly expressed. As a father of two, some of these findings boggle my mind and raise basic questions, such as why is a program of this size doing record keeping with CD-ROMs? Why are denials not documented? Plus, is there *any* process for figuring out whether a procedure, or a piece of equipment, is medically necessary or not? These are very basic elements of running a program of this type, and NICA was unable to provide auditors with acceptable answers.

With all of OIR's findings and recommendations, this report will provide the NICA Board with a roadmap for getting the trajectory of this organization headed on the right course. You have my full support in reforming this program so families are treated with the dignity and respect they deserve. Too often government can operate like a heartless bureaucracy and we cannot allow NICA to function with indifference. These families deserve nothing less than Florida's full compassion and support.

Sincerely,

A handwritten signature in blue ink that reads "Jimmy Patronis".

Jimmy Patronis  
Chief Financial Officer



**FINANCIAL SERVICES  
COMMISSION**

**RON DESANTIS  
GOVERNOR**

**JIMMY PATRONIS  
CHIEF FINANCIAL OFFICER**

**ASHLEY MOODY  
ATTORNEY GENERAL**

**NICOLE "NIKKI" FRIED  
COMMISSIONER OF  
AGRICULTURE**

October 18, 2021

The Honorable Jimmy Patronis  
Chief Financial Officer  
State of Florida  
Florida Department of Financial Services  
200 E. Gaines Street  
Tallahassee, FL 32399-0301

SENT VIA EMAIL AND HAND DELIVERY

Re: Florida Birth-Related Neurological Injury Compensation Association (NICA) Market  
Conduct Operational Audit

Dear Chief Financial Officer Patronis:

The Florida Office of Insurance Regulation (OIR) has conducted a market conduct operational audit of the Florida Birth-Related Neurological Injury Compensation Association (NICA) pursuant to sections 624.3161 and 766.315(5)(d), Florida Statutes (F.S.), per your request.

The audit was conducted in close consultation with Florida's Insurance Consumer Advocate, Tasha Carter, to analyze NICA's claims handling practices and determine if NICA complied with its statutory mandate to finance the reimbursement of actual expenses incurred by participant family members for medically necessary and reasonable care.

Within the audit, OIR made 15 separate findings and provides recommendations to the NICA Board of Directors for each of these findings to administer the plan in a manner that promotes and protects the health and best interests of children with birth-related neurological injuries. The findings and recommendations are as follows:

- **Finding 1:** NICA's process for determining whether a treatment or benefit is medically necessary is inadequate.
  - Recommendation: NICA's Board of Directors should develop and implement processes and procedures to ensure NICA's decisions regarding medical necessity are consistent and objectively applied.

- **Finding 2:** NICA imposes monetary limits when reimbursing participant families for actual expenses that are not substantiated by documentation to support that the amount reimbursed represents the reasonable charges prevailing in the same community for similar treatment of injured persons when such treatment is paid for by the injured person as provided for in Section 766.31(1)(c), F.S.
  - Recommendation: NICA’s Board of Directors should establish a process to ensure that the amounts reimbursed to participant families are substantiated and documented as the reasonable charges prevailing in the same community for similar treatment of injured persons when such treatment is paid for by the injured person, as established by Section 766.31(1)(c), F.S.
- **Finding 3:** NICA failed to properly document, in its claims system, claims denials or instances where claims or benefit inquiries submitted by participant families were not paid.
  - Recommendation: NICA’s Board of Directors should implement procedures to ensure that all instances where claims or benefit inquiries submitted by participant families, whether paid, unpaid or denied, are accurately documented in the claims system.
- **Finding 4:** NICA’s Benefit Disagreement process improperly forecloses participant families their right to file a petition with Division of Administrative Hearings (DOAH) to dispute the denial of a request for reimbursement, as provided for by Section 766.31(1)(c), F.S.
  - Recommendation: The Board of Directors should ensure the Benefit Disagreement process complies with Section 766.31(1)(c), F.S. The Board of Directors should review the nature of all denied claims or claims without payment at regularly scheduled intervals to ensure participant families are provided with their statutory rights.
- **Finding 5:** NICA failed to record complaints received from participant families and failed to record if or how complaints are resolved.
  - Recommendation: NICA’s Board of Directors should implement procedures that define the term “complaint” and require NICA to record and retain records of complaints received from any source and the resolutions of those complaints to ensure proper documentation. The Board of Directors should consider implementing the use of an Ombudsman appointed to provide participant families with an avenue to voice concerns and to formally resolve conflicts. The Board of Directors should review the nature of all complaints received at regularly scheduled intervals to assess the effectiveness of the program and to determine if improvements to the program are needed.
- **Finding 6:** NICA failed to maintain an outreach program to effectively communicate and assist participant families with information about compensation for actual expenses and other benefits available under the Plan.

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- Recommendation: NICA’s Board of Directors should implement a robust and continuous outreach and education program, including home visits, to assist participant families with accessing information about the Plan.
- **Finding 7:** NICA categorizes certain telephone or email communications received from participant families for requests for compensation to be “inquiries” because they were not a “complete claim.”
  - Recommendation: NICA’s Board of Directors should conduct an in-depth review of all claims terminology utilized in the Plan of Operation, claims procedures manuals, benefit handbooks and by NICA’s staff to ensure unambiguous and clearly defined claims terminology is provided to participant families.
- **Finding 8:** NICA’s 2020 Benefit Handbook, which is provided to participant family members upon receiving an award for compensation from DOAH, contains unclear and inconsistent instructions and guidelines.
  - Recommendation: NICA’s Board of Directors should review benefit handbooks and eliminate inconsistent instructions and guidelines.
- **Finding 9:** NICA’s processes place barriers, burdens and time restrictions on participant families seeking reimbursement for actual expenses related to medically necessary and reasonable care for participant family members.
  - Recommendation: NICA’s Board of Directors should develop and implement meaningful and lasting program and process improvements to remove unnecessary barriers, burdens and time restrictions.
- **Finding 10:** NICA’s claims data is incomplete and unreliable.
  - Recommendation: NICA’s Board of Directors should ensure that NICA’s claims system contains complete and accurate claims data.
- **Finding 11:** During the audit scope period, NICA failed to comply with Section 3.M. of NICA’s Plan of Operation by failing to include specific payment procedures, a benefit schedule, and specific procedures to assure the timely and reasonable payment of claims in the claims procedures manual; by failing to develop and include a dispute resolution system in the claims procedures manual; and by failing to maintain or utilize an up to date claims procedures manual.
  - Recommendation: The Board of Directors should ensure that NICA creates, and the Board approves an updated claims procedures manual that complies with Section 3.M. of the Plan of Operation and includes specific payment procedures, a benefit schedule and specific procedures to assure the timely and reasonable payment of claims.
- **Finding 12:** NICA utilizes and reimburses certain third-party vendors without written contracts and does not utilize a competitive bid process to select third-party vendors.
  - Recommendation: NICA’s Board of Directors should ensure that NICA enters into written contracts with all third-party vendors and develops a general business practice of utilizing a competitive bid process for the selection of third-party vendors.

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- **Finding 13:** NICA failed to maintain effective overall records management practices and a centralized, reliable records repository.
  - Recommendation: NICA’s Board of Directors should implement procedures to create and maintain a centralized, reliable, integrated, robust records management system.
- **Finding 14:** The auditors were unable to verify the accuracy of NICA’s reported number of participant families who are eligible to receive the additional \$150,000 award following the implementation of Senate Bill 1786.
  - Recommendation: NICA’s Board of Directors should verify the accuracy of the reported number of participant families eligible to receive the additional \$150,000 award.
- **Finding 15:** NICA failed to maintain accurate data related to participant families with deceased children and failed to timely issue the award for retroactive payments to participant families by July 1, 2021, as required by section 766.31(1)(d)2.b., F.S.
  - Recommendation: NICA’s Board of Directors should ensure that NICA maintains accurate and updated records for participant families. On an annual basis, NICA should utilize all means available to identify and locate eligible participant families and, only after exhausting all efforts and at the end of the required term, ensure the unpaid award is timely and accurately reported to DFS Bureau of Unclaimed Property.

Tasha Carter, Florida’s Insurance Consumer Advocate, agrees with the findings and recommendations outlined in OIR’s audit, which are consistent with her recommendations for the NICA Board of Directors. ICA Carter developed her recommendations following a series of meetings with NICA executive staff, feedback from participant families via a survey, direct communication with families and assisting families with specific inquiries. ICA Carter’s recommendations are as follows:

- Establish and annually update written policies and procedures governing the operations of NICA, including, but not limited to:
  - The handling of claims and reimbursement requests
  - The determination of benefit eligibility and benefit disbursement
  - Parental nursing care guidelines
  - The collection of current and past due physician/mid-wife and hospital assessments and non-compliance reporting
- Revise the Claims Manual to accurately reflect current and improved claims handling procedures.
- Revise the Benefit Handbook to include all available benefits, including: a brief description of the benefit, the amount of the benefit, the required documentation to be submitted at the time the benefit request is made and if prior authorization is required. The Handbook should be updated and shared with families at least annually.

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- Revise the Plan of Operations to accurately reflect current and improved operational procedures.
- Hire an Ombudsman who will act as an advocate for the parents and legal guardians of the NICA participant and report directly to the NICA Board of Directors.
- Modify the CARES System to streamline the claims and reimbursement process and reduce the administrative burden on NICA families and NICA. The modification should include the creation of a NICA family portal that will allow the uploading of claims and reimbursement requests, along with related documentation; automatic notification to the assigned nurse case manager that documents have been uploaded for review; the ability to document the status and resolution of the claim, including corresponding action dates and payment disbursement information; and the ability for the NICA parent or legal guardian to review the status of the claim at any time. NICA families would be provided with a secure login to access their individual portal.
- In addition to an electronic system update, provide a written denial on NICA letterhead for each claim or reimbursement request that is denied which includes an explanation and basis for the denial (reference to the relevant statute, section in the Plan of Operations, etc.).
- Establish written contracts with all third-party vendors. At a minimum, contracts should include a scope of work for services performed, the compensation amount, payment schedule and contract term. NICA should use a competitive bid process similar to the State of Florida's for the selection of third-party vendors.
- Perform a biennial review of all licensed vendors to verify license is active and in good standing.
- Provide an Explanation of Benefits quarterly to the parents and legal guardians of each NICA participant, including each benefit request, the amount and outcome. Families should also be able to download an EOB at any time from the updated CARES system.
- Create a comprehensive orientation program to orientate families that are new to NICA; including a comprehensive review of the Benefit Handbook, the Claims Manual, the Plan of Operations, written policies and procedures, an overview of the NICA Board and its purpose and all other pertinent information.
- Offer a variety of virtual informational sessions or informational resources on relevant programmatic topics to ensure NICA families are continuously educated and informed. NICA should solicit families for topic suggestions.
- Make available bilingual printed resources and bilingual staff to ensure effective communication with all NICA families.

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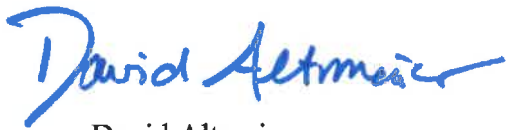
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Pursuant to section 624.319, Florida Statutes and Rule 69N-121.066, NICA was allotted 30 days to review and respond to the draft report prior to finalizing it. NICA responded within 10 days of receipt of the report with no suggestions to the draft and indicated the Board would use the recommendations as they move forward.

Sincerely,



David Altmaier  
Insurance Commissioner



Tasha Carter  
Florida's Insurance Consumer Advocate



CC: NICA Board of Directors Interim Chair, Jim DeBeaugrine



SUPPORTIVE SERVICES FOR  
FAMILIES & PHYSICIANS

October 13, 2021

Ms. Sheryl Parker ARM, MCM  
Director, Property and Casualty Market Regulation  
Florida Office of Insurance Regulation  
200 E. Gaines St.  
Tallahassee, FL 32399

Dear Ms. Parker,

I have received the draft audit report on the Florida Birth Related Neurological Injury Compensation Association (NICA). NICA accepts the findings therein and does not request or recommend changes. We appreciate the effort your office put into the report. It will be a valuable resource to the Board and our management team as we seek to improve services for the children and families served by the organization.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim DeBeaugrine".

Jim DeBeaugrine, MPA  
Interim Chair



# **THE STATE OF FLORIDA**

**OFFICE OF INSURANCE REGULATION**

**MARKET REGULATION**

**OPERATIONAL AUDIT OF THE**

**FLORIDA BIRTH-RELATED NEUROLOGICAL INJURY**

**COMPENSATION ASSOCIATION**

**OCTOBER 1, 2021**

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## BACKGROUND

The Florida Office of Insurance Regulation (OIR) conducted an operational audit (audit) of the Florida Birth-Related Neurological Injury Compensation Association (NICA) pursuant to Sections 624.3161 and 766.315(5)(d), Florida Statutes (F.S.) at the request of the Department of Financial Services (DFS). The scope period of the audit was January 1, 2017 through December 31, 2020 and included the review of NICA's implementation of certain legislative changes contained within Senate Bill 1786 (SB 1786) which became law on July 1, 2021.

NICA was established by the Florida Legislature in 1988 to administer the Florida Birth-Related Neurological Injury Compensation Plan (Plan). In part, the intent of the Legislature was to provide compensation, on a no-fault basis, for a limited class of newborns with birth-related neurological injuries. Participant family members and their parents or legal guardians give up their right to pursue other remedies as a condition of accepting benefits under the Plan, except in certain extreme cases, in accordance with Section 766.303(2), F.S.

With certain limitations, Section 766.31(1)(a), F.S. awards participant families with compensation for the actual expenses related to medically necessary and reasonable medical and hospital, habilitative and training, family residential or custodial care, professional residential, and custodial care and service, for medically necessary drugs, special equipment, and facilities, and for related travel for infants who sustain birth-related neurological injuries.

Section 766.31(1)(c), F.S. limits actual expenses to reasonable charges prevailing in the same community for similar treatment of injured persons when such treatment is paid for by the injured person and allows participant families receiving benefits under the Plan to file a petition with the Division of Administrative Hearing's (DOAH) administrative law judge to dispute the amount of actual expenses reimbursed or a denial of reimbursement.

During the audit's scope period, NICA was governed by a five-member Board of Directors.<sup>1</sup> Section 766.314(2)(a), F.S. requires NICA's Board of Directors to create and amend a Plan of Operation to ensure the efficient administration of the Plan and for the prompt processing of claims against and awards made on behalf of NICA. Sections 766.314(2)(a) and (b), F.S. require OIR to review and approve NICA's Plan of Operation or any amendments made by the Board of Directors. The original Plan of Operation was approved by the former Department of Insurance. Since 2003, when OIR was created, the Plan of Operation has been amended four times to update certain definitions, adopt amended statutory language or benefit changes, adopt new reporting requirements, and adopt amendments to processes related to investments and fund management. NICA's most current Plan of Operation was last approved by OIR on December 6, 2013.

NICA's Plan of Operation requires the Board of Directors to employ an Executive Director to serve as chief administrative staff person and to be responsible for the day-to-day operation of NICA. The Plan of Operation requires the Executive Director to develop a claims procedures manual to include payment procedures, a benefit schedule, a dispute resolution system, and other procedures to assure timely and reasonable payment of claims. The Board of Directors is required to approve the claims

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<sup>1</sup> The composition of the Board of Directors was expanded to seven members in 2021 by Senate Bill 1786. The present members of NICA's Board of Directors were appointed after July 1, 2021 after the expiration of the audit's scope period.

procedures manual developed by the Executive Director. NICA's 2013 Claims Manual was the most current claims procedures manual in use at the time of the audit. During the audit, in addition to reviewing the pertinent statutes, the Plan of Operation, and the 2013 Claims Manual, the auditors reviewed NICA's 2020 Benefit Handbook, which is provided to participant family members upon receiving an award for compensation from DOAH. The auditors also reviewed documents produced by NICA and 10 sampled claims files representing a total of 2,064 lines of claims data.

The purpose of the audit was to analyze NICA's claims handling practices and determine if NICA complied with its statutory mandate to finance the reimbursement of actual expenses incurred by participant family members for medically necessary and reasonable medical and hospital, habilitative and training, family residential or custodial care, professional residential, and custodial care and service, for medically necessary drugs, special equipment, and facilities, and for related travel by participant family members.

## FINDINGS AND RECOMMENDATIONS

**Finding 1:** NICA's process for determining whether a treatment or benefit is medically necessary is inadequate.

In addition to the Executive Director, NICA employs one case manager supervisor and six case managers who, according to NICA's position descriptions, are responsible for analyzing and recommending the payment of claims and negotiating prices for medically necessary items. When a request for the reimbursement of actual expenses related to the care of a participant family member is received, NICA's case managers are responsible for making the initial determination of medical necessity, as stated in the 2013 Claims Manual. NICA stated the case managers and the case manager supervisor often use Google to research and determine medical necessity. In cases where medical necessity remains in question, NICA's process becomes dependent on a number of variables including who the assigned case manager is and the judgment of the Executive Director, who makes determinations regarding medical necessity regardless of the fact that she has no medical training or credentials. While the auditors noted that the case managers and case manager supervisor appear to have a wealth of overall nursing experience, NICA's position descriptions do not require them to have specific expertise in obstetrics or birth-related medical conditions.

There is no procedure requiring NICA to consult with a physician or other qualified medical professional in active practice of the same specialty or a process in place to ensure two or more staff members consistently arrive at the same conclusion to ensure that similarly situated participant family members are receiving substantially similar benefits<sup>2</sup>.

**Recommendation:** NICA's Board of Directors should develop and implement processes and procedures to ensure NICA's decisions regarding medical necessity are consistent and objectively applied.

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<sup>2</sup> Section 409.9131(2)(b), F.S. contains Florida Medicaid's definition for medical necessity or medically necessary.

**Finding 2:** NICA imposes monetary limits when reimbursing participant families for actual expenses that are not substantiated by documentation to support that the amount reimbursed represents the reasonable charges prevailing in the same community for similar treatment of injured persons when such treatment is paid for by the injured person as provided for in Section 766.31(1)(c), F.S.

NICA's 2020 Benefit Handbook and 2021 Quick Reference Benefits List contain a number of monetary benefit limits. A specific list of benefit limitations contained in NICA's 2020 Benefit Handbook are contained within Appendix A of this report; and a specific list of benefit limitations contained in NICA's 2021 Quick Reference Benefits List are contained within Appendix B of this report.

NICA was unable to provide any documentation to support the imposition of these monetary limits or that such limits complied with the provisions of Section 766.31(1)(c), F.S.

**Recommendation:** NICA's Board of Directors should establish a process to ensure that the amounts reimbursed to participant families are substantiated and documented as the reasonable charges prevailing in the same community for similar treatment of injured persons when such treatment is paid for by the injured person, as established by Section 766.31(1)(c), F.S.

**Finding 3:** NICA failed to properly document, in its claims system, claims denials or instances where claims or benefit inquiries submitted by participant families were not paid.

NICA provided the auditors with claims data relevant to the audit's scope period. Claims data is typically maintained in two categories: claims with payment and claims without payment. The auditors determined that NICA only maintains records related to paid claims or claims with payment but fails to code or document instances in the claims systems of unpaid expenses, denied claims, or instances where claims or inquiries for the compensation of actual expenses for participant family members were not reimbursed.

During the review of the 10 sampled claims files, the auditors identified the following instances where the claims notes reflected instances of denied claims that were not coded or recorded as denied claims in the claims system:

- One claims file contained evidence that NICA failed to fully reimburse a participant family's request for supplies. The claims file contained no information or justification for NICA's failure to reimburse for the requested supplies;
- One claims file contained evidence that NICA failed to reimburse a participant family for a hotel stay related to certain therapy treatments because no prior authorization was requested or approved before the scheduled therapy visit. The same claims file also reflects that NICA failed to reimburse the participant family for care hours during times when the participant family member received certain therapy treatments. The claims file documents that NICA later overturned the decision; and
- One claims file contained evidence that NICA initially denied reimbursement of claims for

a participant family member until the participant family submitted a significant amount of documentation to support medical necessity and initiated numerous follow up emails and telephone calls to NICA.

**Recommendation:** NICA’s Board of Directors should implement procedures to ensure that all instances where claims or benefit inquiries submitted by participant families, whether paid, unpaid, or denied, are accurately documented in the claims system.

**Finding 4:** NICA’s Benefit Disagreement process improperly forecloses participant families their right to file a petition with DOAH to dispute the denial of a request for reimbursement, as provided for by Section 766.31(1)(c), F.S.

The Benefit Disagreement section contained within the 2020 Benefit Handbook states that if there is a disagreement regarding an “eligible benefit,” the issue is referred to a case manager supervisor. If the case manager supervisor is unable to resolve the dispute, the disagreement is referred to the Executive Director. If the disagreement remains unresolved, the participant can appeal to DOAH.

The language contained in the Benefit Disagreement section provides that the appeal process only applies to “eligible benefits” as defined and determined by NICA. Section 766.31(1)(c), F.S. provides participant families receiving benefits under the Plan with the right to file a petition with DOAH to dispute the amount of actual expenses reimbursed or a denial of reimbursement without regard to whether it is deemed an “eligible benefit” by NICA.

NICA confirmed that there is no formal procedure or process in place for providing participant family members with written denials. The statute does not require NICA to provide participant families with a written claims denial. The statute allows participant families receiving benefits under the Plan to dispute a denial of reimbursement. NICA confirmed that no participant family members have filed an appeal with DOAH since 2013.

**Recommendation:** The Board of Directors should ensure the Benefit Disagreement process complies with Section 766.31(1)(c), F.S. The Board of Directors should review the nature of all denied claims or claims without payment at regularly scheduled intervals to ensure participant families are provided with their statutory rights.

**Finding 5:** NICA failed to record complaints received from participant families and failed to record if or how complaints are resolved.

On April 6, 2017, a participant family testified in front of the Board of Directors stating in part, *“Change needs to happen in the NICA culture. It’s an overwhelming system that literally takes YEARS to navigate. I implore you...Help families...don’t put up brick walls...**Create a culture of trust and partnership.** I have many times over the past 16 or so years, felt NICA did not have a culture of being person-centered but denial driven.”* In response to this testimony, the Chair of NICA’s Board of Directors asked the Executive Director and staff to develop actionable steps to better address these concerns.

During the 2021 legislative session, several participant families voiced complaints and concerns related to the NICA program. One parent stated, *“I am hopeful now that there is legislation that is currently being drawn up to help families who are covered under NICA, so as to not have to jump through hoops and hell, to get the benefits that they rightly deserve for their children.”*

Florida’s Insurance Consumer Advocate and others conducted surveys throughout the course of 2021, the results of which contain valuable and meaningful feedback regarding both the positive and negative impacts of the NICA program on participant families.

NICA stated any complaint that has been received was resolved internally but NICA did not maintain or produce documentation to support the statement. NICA also stated without a definition or description of what a “complaint” is, it would be difficult for NICA to determine what should be maintained and how.

**Recommendation:** NICA’s Board of Directors should implement procedures that define the term “complaint” and require NICA to record and retain records of complaints received from any source and the resolutions of those complaints to ensure proper documentation. The Board of Directors should consider implementing the use of an Ombudsman appointed to provide participant families with an avenue to voice concerns and to formally resolve conflicts. The Board of Directors should review the nature of all complaints received at regularly scheduled intervals to assess the effectiveness of the program and to determine if improvements to the program are needed.

**Finding 6:** NICA failed to maintain an outreach program to effectively communicate and assist participant families with information about compensation for actual expenses and other benefits available under the Plan.

Up until 2017, NICA made home visits to participant families after receiving an initial award for compensation from DOAH and periodically thereafter, when necessary. No similar replacement outreach efforts to support participant families have been instituted since 2017.

**Recommendation:** NICA’s Board of Directors should implement a robust and continuous outreach and education program, including home visits, to assist participant families with accessing information about the Plan.

**Finding 7:** NICA categorizes certain telephone or email communications received from participant families for requests for compensation to be “inquiries” because they were not a “complete claim.”

Section 766.305(4), F.S. uses but does not define the term “complete claim.” This section of the statute is related to the initial claim for compensation under the Plan and not to requests for compensation of actual expenses related to medically necessary and reasonable care. Neither the term “inquiry” nor the term “complete claim” is defined in statute, the Plan of Operation, the 2013 Claims Manual, or the 2020 Benefit Handbook.

**Recommendation:** NICA’s Board of Directors should conduct an in-depth review of all claims terminology utilized in the Plan of Operation, claims procedures manuals, benefit handbooks,



and by NICA's staff to ensure unambiguous and clearly defined claims terminology is provided to participant families.

**Finding 8:** NICA's 2020 Benefit Handbook, which is provided to participant family members upon receiving an award for compensation from DOAH, contains unclear and inconsistent instructions and guidelines.

- Page 5 of the 2020 Benefit Handbook advises participant family members that most benefits, except emergencies, should have NICA's prior approval before incurring expenses. However, NICA advised the auditors during the onsite interviews that, to receive payment, it must first be demonstrated that a participant family member "benefitted from" or noticeably "progressed" as a result of receiving a certain therapy or treatment;
- Page 17 of the 2020 Benefit Handbook provides that although a participant has been determined to be eligible for benefits, participant family members should contact NICA before committing to the purchase of equipment or incurring other expenses because failure to do so "may" jeopardize the amount of reimbursement; and
- Page 17 of the 2020 Benefit Handbook states NICA may not reimburse or may reimburse at a lower amount for benefits that the participant family member would be eligible for under an insurance policy or program when the parent or legal guardian refuses to seek those benefits. However, Sections 766.31(1)(a)2. and 4., F.S. state that expenses for items or services that the participant family member has received, or is contractually entitled to receive, from any prepaid health plan, health maintenance organization, or other private insuring entity and pursuant to the provisions of any health or sickness insurance policy or other private insurance program are not subject to compensation by NICA.

**Recommendation:** NICA's Board of Directors should review benefit handbooks and eliminate inconsistent instructions and guidelines.

**Finding 9:** NICA's processes place barriers, burdens, and time restrictions on participant families seeking reimbursement for actual expenses related to medically necessary and reasonable care for participant family members.

- NICA required parents to sign a Perjury Statement in order to receive the \$150,000 parental award enacted under SB 1786, despite the legislation already providing eligibility criteria for participant families to receive the additional award. NICA discontinued this practice but only after it was disclosed during the audit;
- In cases where medical necessity was in question, NICA would only provide medical necessity forms directly to medical physicians and would not provide them to participant families even if requested. NICA also discontinued this practice after it was disclosed during the audit;

- Page 18 of the 2020 Benefit Handbook provides that if a participant family member receives treatment, evaluation or surgery outside of his insurance plan’s coverage area, or outside of the state of Florida, NICA alone determines, in advance, whether it will elect to pay for those benefits, even if the treatment, evaluation or surgery is medically necessary; and
- Page 18 of the 2020 Benefit Handbook limits the time participant families are allowed to submit requests for reimbursement to one year from the date incurred, which is not required by Florida statutes.

**Recommendation:** NICA’s Board of Directors should develop and implement meaningful and lasting program and process improvements to remove unnecessary barriers, burdens, and time restrictions.

**Finding 10:** NICA’s claims data is incomplete and unreliable.

- The auditors were unable to ascertain the timely and accurate payment of claims because the claims system contains incomplete records of dates and lacks supporting documentation and related communications with participant families;
- NICA’s claims system erroneously relabels participant family member claims numbers when claims data is exported into the reserves data;
- NICA’s staff failed to accurately or consistently code all claims reimbursements in the claims system;
- NICA permitted staff members who sign payment authorizations for claims reimbursements to override the pre-authorization limits contained within the claims system; and
- NICA failed to provide accurate claims payment worksheets to the auditors. In three instances out of the 10 claims files reviewed, parental awards or plaintiff attorney fees or defense costs were not included in the claims payment worksheets. However, these payments were reflected in the claims system, requiring the auditors to compare the claims payments worksheets with the claims system to ensure a full and accurate review of the overall claims documentation.

**Recommendation:** NICA’s Board of Directors should ensure that NICA’s claims system contains complete and accurate claims data.

**Finding 11:** During the audit scope period, NICA failed to comply with Section 3.M. of NICA’s Plan of Operation by failing to include specific payment procedures, a benefit schedule, and specific procedures to assure the timely and reasonable payment of claims in the claims procedures manual; by failing to develop and include a dispute resolution system in the claims procedures manual; and by failing to maintain or utilize an up to date claims procedures manual.

At the initiation of the audit, NICA provided its 2013 Claims Manual to the auditors in response to an information request for such documents. However, during the audit, NICA informed the auditors that the 2013 Claims Manual was outdated and no longer in use by NICA. No updated claims procedures manual has been developed or reviewed and approved by the Board of Directors since 2013.

**Recommendation:** The Board of Directors should ensure that NICA creates, and the Board approves, an updated claims procedures manual that complies with Section 3.M. of the Plan of Operation and includes specific payment procedures, a benefit schedule, and specific procedures to assure the timely and reasonable payment of claims.

**Finding 12:** NICA utilizes and reimburses certain third-party vendors without written contracts and does not utilize a competitive bid process to select third-party vendors.

NICA's claims system reflects that NICA reimbursed four medical opinion vendors \$467,251.06 and one IT vendor \$13,298.97 without written contracts during the audit scope period.

**Recommendation:** NICA's Board of Directors should ensure that NICA enters into written contracts with all third-party vendors and develops a general business practice of utilizing a competitive bid process for the selection of third-party vendors.

**Finding 13:** NICA failed to maintain effective overall records management practices and a centralized, reliable records repository.

The auditors visited NICA's offices in Tallahassee in May 2021 and observed boxes of paper records located throughout the offices. NICA utilizes CDs for some of its long-term storage, despite the fact that CDs can erode over time.

During the auditors' review of the sampled claims files, the auditors noted a significant number of documents were missing from the claims system and, in certain cases, were uploaded after NICA received an inquiry from the auditors. NICA stated that it had hired a third-party vendor to scan certain paper documents but was unable to provide an estimated completion date for this project.

**Recommendation:** NICA's Board of Directors should implement procedures to create and maintain a centralized, reliable, integrated, robust records management system.

## **IMPLEMENTATION OF SENATE BILL 1786**

The scope of the operational audit included a review NICA's implementation of certain legislative changes contained within SB 1786, which was signed into law and became effective July 1, 2021.

**Finding 14:** The auditors were unable to verify the accuracy of NICA's reported number of participant families who are eligible to receive the additional \$150,000 award.

Section 3 of SB 1786 amended Section 766.31(1)(d)1.b., F.S., awarding parents or legal guardians who received an award before January 1, 2021, and whose child currently receives benefits, to receive a retroactive payment in an amount sufficient to bring the total award to \$250,000. As of August 6, 2021, NICA reported 215 families were determined to be eligible to receive the additional \$150,000 award and that all families were paid as directed on or before June 30, 2021.

Of the 215 families:

- 170 were paid the full lump sum;
- 35 families requested the funds be “held;” and
- 16 families were paid “partial” benefits with the remainder held at the family’s request.

The auditors were unable to verify the accuracy of the reported numbers which total 221 families, not the 215 families reported by NICA.

**Recommendation:** NICA’s Board of Directors should verify the accuracy of the reported number of participant families eligible to receive the additional \$150,000 award.

**Finding 15:** NICA failed to maintain accurate data related to participant families with deceased children and failed to timely issue the award for retroactive payments to participant families by July 1, 2021, as required by Section 766.31(1)(d)2.b., F.S.

Section 3 of SB 1786 also amended Section 766.31(1)(d)2.b., F.S., awarding parents or legal guardians who received an award and whose child died since the inception of the program, a retroactive payment in an amount sufficient to bring the total award paid to \$50,000 which must be paid by July 1, 2021.

As of September 17, 2021, NICA reported that 206 families were determined to be eligible to receive the additional \$40,000 award. Of the 206 families, 155 families have been paid. In the remaining instances:

- 50 families have not been paid because NICA did not maintain contact or up-to-date records for these family members; and
- 1 participant was identified as a ward of the state of Texas and multiple attempts to identify and contact a parent or legal guardian have gone unanswered.

The failure of NICA to maintain accurate data related to participant families prevented NICA from fulfilling its statutory obligation to issue an award for retroactive payments to those families.

NICA reported that it has hired a private detective and sent certified letters in an effort to locate and pay these families the remaining benefits. NICA also reported that it will turn all funds pertaining to non-responsive participant families over to the DFS Bureau of Unclaimed Property within the required timeframe<sup>3</sup>.

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<sup>3</sup> Chapter 717, F.S. requires unclaimed property assets to be held for a set period of time, usually five years.

**Recommendation:** NICA’s Board of Directors should ensure that NICA maintains accurate and updated records for participant families. On an annual basis, NICA should utilize all means available to identify and locate eligible participant families and, only after exhausting all efforts and at the end of the required term, ensure the unpaid award is timely and accurately reported to DFS Bureau of Unclaimed Property.

## CONCLUSION

This operational audit of NICA was designed to analyze the extent to which NICA’s claims handling practices complied with its “statutory mandate to finance medically necessary and reasonable care, services, equipment, and travel for a limited class of catastrophic injuries for birth- related neurological injuries.<sup>4</sup>” This audit identifies a number of areas that need improvement if NICA is to be in compliance with its statutory mandate outlined in Section 766.303, F.S. “to administer the Plan in a manner that promotes and protects the health and best interest of children with birth-related neurological injuries.<sup>5</sup>” This audit report and the Findings are the result of a factual, data-driven analysis of NICA’s claims handling practices.

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<sup>4</sup> The Department of Financial Services (DFS) requested that OIR conduct an operational audit of NICA. The purpose of the audit was to focus on the extent to which NICA’s claims handling practices complied with its statutory mandate to finance medically necessary and reasonable care, services, equipment, and travel for a limited class of catastrophic injuries for birth-related neurological injuries.

<sup>5</sup> SB 1786 added Section 766.303(4), F.S. which requires NICA to administer the Plan in a manner that promotes and protects the health and best interests of children with birth-related neurological injuries.

## APPENDIX A

### Benefit Limitations contained in NICA’s 2020 Benefit Handbook<sup>6</sup>

Listed Benefit	Limitation Imposed
Equipment	<ul style="list-style-type: none"> <li>• Equipment not provided includes jogging strollers and other equipment used solely for convenience or recreation which is not medically necessary.</li> </ul>
Transportation Mileage	<ul style="list-style-type: none"> <li>• Mileage for one trip to the pharmacy per month for prescriptions related to the participant family member’s birth injury at a rate of \$.23 per mile for gasoline if using a NICA provided van or \$.445 per mile if using a privately owned vehicle.</li> <li>• Mileage for medical appointments or pre-approved travel at a rate of \$.23 per mile if using a NICA provided van.</li> </ul>
Travel	<ul style="list-style-type: none"> <li>• Reimbursement for airline travel and meals for only one parent.</li> </ul>
Handicapped Accessible Vans	<ul style="list-style-type: none"> <li>• Participant family members must be 6 years of age or weigh 45 lb.</li> <li>• The cost of excess insurance coverage beyond “basic mandatory insurance plus comprehensive and collision.”</li> <li>• Van replacement at 7 years or \$150,000 miles. NICA reviews the vehicle’s service history and may not replace the van if not properly maintained.</li> </ul>
Augmentative Communication Technology	<ul style="list-style-type: none"> <li>• Payment for reasonable repairs and replacement after 5 years.</li> </ul>
Privately-Owned Housing Assistance & Total Lifetime Housing Benefit	<ul style="list-style-type: none"> <li>• \$30,000 one-time funding for modification to a non-rental home currently owned and occupied by the participant family.</li> <li>• NICA’s construction manager or other qualified professional determines the feasibility of the modification and if the needs of the participant family member would be met in the contemplated project.</li> <li>• During the onsite interviews, the Executive Director also mentioned that this amount may be stipulated in the initial award issued by the administrative law judge.</li> </ul>
Rental Housing Assistance	<ul style="list-style-type: none"> <li>• NICA will reimburse the difference between the former monthly rental payment and the cost for an appropriate handicapped accessible rental unit of similar size and quality based on cost per square foot.</li> <li>• Substantial increases in square footage of the handicapped accessible unit must not exceed the overall guidelines utilized when NICA constructs additional space for a participant family member.</li> <li>• Up to \$2,000 for qualified moving expenses for a one-time move to a handicapped accessible home or rental unit. The Plan may require certification of the rental unit’s suitability prior to providing reimbursement.</li> </ul>

<sup>6</sup> The amounts reflected are based on the language contained in the 2020 Benefit Handbook and do not reflect the amendments made to Florida statutes due to SB 1786 that became effective July 1, 2021.

Diapers	<ul style="list-style-type: none"> <li>• Reimbursement begins at age 3.</li> </ul>
Pureed Food	<ul style="list-style-type: none"> <li>• Reimbursement begins at age 2.</li> <li>• Reimbursement amount is limited to \$2.05 per jar or pouch for pre-processed baby food.</li> <li>• NICA encourages parent to use fresh foods and allows up to \$500 to purchase a blender with a minimum 3-year replacement cycle.</li> <li>• The actual fresh food to be processed, including nuts, seeds, nutrients, and supplements are not eligible for reimbursement.</li> </ul>
Insurance Premiums	<ul style="list-style-type: none"> <li>• NICA “may” reimburse for the participant family member’s portion of a health insurance premium on a prospective basis, only if reimbursement is requested.</li> <li>• NICA reserves the right to calculate the appropriate premium that will be reimbursed on a pro-rata basis.</li> </ul>

## APPENDIX B

### Benefit Limitations contained in NICA's 2021 Quick Reference Benefits List<sup>7</sup>

Listed Benefit	Limitation Imposed
Annual Therapy Camp	<ul style="list-style-type: none"><li>• Limited to \$2,000 per year</li></ul>
Augmentative Communication Technology	<ul style="list-style-type: none"><li>• Computer (limit \$1,000 if no adaptive programs)</li><li>• iPad (limit \$500 if not adaptive programs)</li></ul>
Special Socks for AFOs, braces or other orthotics	<ul style="list-style-type: none"><li>• 4 pairs (duration not specified)</li></ul>
Shoes to fit with AFOs, braces or other orthotics	<ul style="list-style-type: none"><li>• 2 pairs per year</li></ul>
Guardianship costs	<ul style="list-style-type: none"><li>• One-time benefit up to \$2,500</li></ul>
Electric Stipend	<ul style="list-style-type: none"><li>• \$100 monthly amount to off-set additional electricity costs</li></ul>

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<sup>7</sup> The amounts reflected are based on language contained in the 2021 Quick Benefits List and do not reflect the amendments made to Florida statutes due to SB 1786 that became effective July 1, 2021.





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# **Agenda Item # 6 (Tab M)**

## **Reserve Update**


# Reserve Review

December 9, 2021, BoD Meeting



# Reserve Changes Throughout Year Based on Paid Claims

- 6/30/20 Reserve \$1,039,500,000
- Benefits paid during 7/1/20-6/30/21  
\$49,782,059
- Resulting reserve prior to actuarial  
adjustment at 6/30/21 - \$989.7m



## Reserve for financial statements is recalculated at end of each fiscal year based on estimated future benefits after review of current medical records

- Estimate all future benefits for all current participants
- Estimate all benefits for future participants where child has been born, but not yet entered program (referred to as “IBNR”)
- Several adjustments
  - Discount to present value to account for expected earnings
  - Costs to administer benefits
  - Actuarially determined risk margin


# For final 6/30/2021 Reserve:

- Cost of all future benefits discounted to present value - \$1.094 billion
- Add future cost to administer - \$14.9 million
- Add risk margin of \$75.5 million
- Final amount \$1.1845 billion



# Claims expense – difference between beginning reserve and ending reserve

- At 6/30/21 prior to actuarial calculation - \$.9897 billion
- At 6/30/21 after actuarial calculation – \$1.1845 billion
- Difference is expense - \$194.8 million



Difference between Assets (i.e. Investments) and Liabilities (i.e. Claims Reserve) equals Net Position – or Unreserved Assets

- Assets at 6/30/2021 = \$1.7 billion
- Liabilities at 6/30/2021 = \$1.2 billion
- Unreserved Assets = \$500 million





# Potential impacts to Unreserved Assets

- Payment of increase in parent award to families whose children have died (requires legislative authority)
  - 206 families times \$150,000 equals \$30.9 million
- Availability of mental health services to families whose children have died (requires legislative authority)
  - For families no longer with NICA – 206 families times \$10,000 per year equals maximum of \$2.06 million for each year authorized by legislature, one-time impact
  - For 224 families currently in program – this would need to be added to actuarial calculation



# Potential impacts to Unreserved Assets, cont'd

- Making family care benefit the same amount for all families (BoD can approve for short-term but legislative fix needed in future)
  - BoD had previously approved incremental increase for those families who were in category of “federal minimum wage” to incrementally increase to match those families receiving Medicaid Home Health Aide (currently \$15/hour). 2021 rate is \$11/hour, set to increase to \$12/hour 1/1/2022
- Retroactive Family Care benefit issue – cost TBD
- Medicaid litigation (to be discussed in Executive Session)
- Other potential legislative considerations

# **Agenda Item # 9 (Tab N)**

## **Budget Presentation**

**NICA General and Administrative Expenses  
Comparison of Fiscal Year 6/30/2021 Budget to Actual  
and Comparison of Fiscal Year to Date 10/31/2021 and Proposed Budget for Fiscal Year 6/30/2022**

	Actual 6/30/2021	Budget 6/30/2021	(Over)/Under Budget	Unaudited Four Months Ending 10/31/2021	PROPOSED BUDGET FYE 06/30/2022	Increase (Decrease)	Compared to Prior Year Actual Percentage Change
Accounting services	83,227	80,800	(2,427)	22,425	84,000	773	0.9%
Dues & subscriptions	4,915	5,000	85	179	5,185		0.0%
Insurance (1)	235,677	242,000	6,323	89,205	302,000	66,323	28.1%
Miscellaneous	(719)	800	1,519	9	800	1,519	-211.3%
Office supplies	7,478	8,850	1,372	3,697	8,850	1,372	18.3%
Payroll taxes	81,736	82,000	264	29,394	90,650	8,914	10.9%
Postage	60,653	71,000	10,347	30,130	64,000	3,347	5.5%
Printing services	47,248	43,650	(3,598)	25,364	47,400	152	0.3%
Professional fees (1)	373,180	356,000	(17,180)	213,200	554,000	180,820	48.5%
Repairs & Maintenance	90,805	98,900	8,095	38,102	111,250	20,445	22.5%
Retirement	162,107	163,000	893	54,405	150,000	(12,107)	-7.5%
Salaries	1,109,439	1,105,000	(4,439)	400,998	1,225,000	115,561	10.4%
Taxes & licenses	308	850	542	-	1,145	837	271.8%
Telephone	18,054	17,000	(1,054)	8,240	18,900	846	4.7%
Travel	(62)	23,000	23,062	-	13,700	13,762	-22196.8%
Education	1,715	2,000	285	563	3,000	1,285	74.9%
Utilities	10,850	10,500	(350)	5,775	11,500	650	6.0%
Bank charges	3,702	5,000	1,298	-	4,100	398	10.8%
Outreach	98,804	124,700	25,896	41,875	62,750	(36,054)	-36.5%
<b>Sub-Total</b>	<b>2,389,117</b>	<b>2,440,050</b>	<b>50,933</b>	<b>963,561</b>	<b>2,758,230</b>	<b>369,113</b>	<b>15.4%</b>
Legal - General attorney fees & costs (1)	797,281	1,144,800	347,519	256,435	579,800	(217,481)	-27.3%
Rent Expense	19,853	18,600	(1,253)	37,240	111,720	91,867	462.7%
OIR Operational Audit	175,840	-	(175,840)	172,055	172,055	(3,785)	-2.2%
<b>Total</b>	<b>3,382,091</b>	<b>3,603,450</b>	<b>221,359</b>	<b>1,429,291</b>	<b>3,621,805</b>	<b>239,714</b>	<b>7.1%</b>

(1) See separate detail

		<u>Actual</u>	<u>YTD</u>	<u>PROPOSED</u>
		<u>6/30/2021</u>	<u>10/31/2021</u>	<u>BUDGET</u>
				<u>FYE 06/30/2022</u>
Insurance				
	Employee Related	184,320.00	70,089.00	241,432.00
	Business	51,357.00	19,116.00	60,568.00
		235,677.00	89,205.00	302,000.00
Professional Fees				
	Actuary	186,907.00	94,139.00	182,000.00
Information Technology / CARES Development / Support		186,273.00	117,061.00	200,000.00
	Temp Staff / Other		2,000.00	12,000.00
	Contracted Executive Director	-		160,000.00
		373,180.00	213,200.00	554,000.00
Legal Fees/Costs				
	General Counsel	120,000.00	40,000.00	120,000.00
	Legislative	96,000.00	32,000.00	96,000.00
	HIPAA/Public Records	253,988.00	10,788.00	20,000.00
	Litigation	325,111.00	173,647.00	341,000.00
	Other	2,182.00	-	2,800.00
		797,281.00	256,435.00	579,800.00

NICA  
Staff Positions

	# of Positions		# of Positions	
	FY 2021	FTE	FY 2022	FTE
Executive Director	1	1	1	0.5
Deputy Director	1	1	1	1
Claims Manager	1	1	1	1
Case Manager Supervisor	1	1	1	1
Case Manager (Full Time)	4	4	7	5
Case Manager (Part Time)	2	1.5	2	1.5
Insurance Administrator	2	2	3	3
Office Operations Manager	1	1	1	1
Accounting Administrator	1	1	1	1
Regulatory Analyst (Part Time)	1	0.75	1	0.75
Provider Relations Coordinator	1	1	1	1
Administrative Assistant	1	1	1	1
Parent Advocate	0	0	1	0.25
Total	17	16.25	22	18