

NICA announces signing of settlement agreement in false claims act ("FCA") lawsuit.

In connection with the federal lawsuit captioned *U.S. ex rel. Arven v. The Florida Birth-Related Neurological Injury Compensation Association, et al.*, No. 0:19-cv-61053 (S.D. Fla.) ("Action") in which it was alleged that NICA caused the submission of false claims to Medicaid in violation of the FCA by acting as the payor of last resort, NICA has entered into a settlement agreement with the United States and Relators. NICA and its Board believe it acted appropriately and in good faith at all times and has consistently held the view for more than three decades that it was not a "third party" under 42 U.S.C. § 1396a(a)(25)(A). Accordingly, NICA did not knowingly cause the submission of false claims.

While NICA steadfastly believes it would have prevailed had this dispute gone to trial, it recognizes that litigation is inherently unpredictable. In weighing its options, NICA and its Board ultimately decided that it was in the best interest of the program to not only avoid future legal expenses, but also to avoid the risk of losing the lawsuit, which could have resulted in billions of dollars in exposure and been a financially devastating outcome.

NICA Board of Director's Chair Jim DeBeaugrine issued the following comment: "This was a difficult decision because the funds paid in the settlement only serve to reduce the amount available for services to brain-injured children. We could not, however, risk the small chance of ultimately losing the litigation, as that would have been financially catastrophic to the program. We will now put this chapter behind us and continue with the reforms that the current Board was put in place to implement. I am pleased with what we have accomplished to date and will continue to focus on the long-term success of the program."