

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 03-87V

Filed: January 5, 2007

NOT TO BE PUBLISHED

CLAUDIA RODRIGUEZ, as legal *
representative of MARIO ARTURO *
RODRIGUEZ, *

Petitioner, *

v. *

SECRETARY OF THE DEPARTMENT *
OF HEALTH AND HUMAN SERVICES, *

Respondent. *

Damages; Proffer on Award of
Compensation

Leland Dempsey, Dempsey & Kingsland, P.C., Kansas City, MO, for petitioner

James Reistrup, U.S. Department of Justice, Washington, D.C., for respondent

DECISION ON REMAND¹

GOLKIEWICZ, Chief Special Master.

On August 8, 2005, this case was remanded for damages. The parties engaged their respective life care planners for the purpose of ascertaining petitioner's long-term vaccine-related

¹The undersigned intends to post this decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction "of any information furnished by that party (1) that is trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, "the entire" decision will be available to the public. Id.

needs and filed their respective life care plans. On September 1, 2006, respondent filed his Proffer on Award of Compensation for the items over which no dispute exists and to which petitioner agrees. On September 12, 2006 a Hearing on damages was convened to determine the appropriate amount of life care compensation for the items which were in dispute. Testifying for the petitioner were Claudia Rodriguez, Terry Arnold, life care planner, and Craig MacDonald, treating doctor. Testifying for the respondent was Jacqueline Peterson, life care planner. The case is now ripe for decision.

After a complete review of the record and based upon the evidence adduced at the Hearing on damages, the court finds that petitioner, Mario Rodriguez, is entitled to an award under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10 et seq., as reflected in Respondent's Proffer on Award of Compensation and the attached chart, *Appendix A: Items of Compensation for Mario Arturo Rodriguez*. The undersigned directed respondent to prepare the attached chart to reflect both the proffered items and the items as found by the undersigned. The court is convinced, based upon its experience and information in the record, that this award shall provide reasonable compensation to cover Mario Rodriguez's vaccine-related expenses.

Form of Compensation Award

1. **Growth Rate:**

As indicated in Appendix A, the appropriate growth rate for all life care items is 4%, compounded annually from the date of judgment.

2. **Lump Sum:**

A lump sum payment in the amount of \$1,141,894.38, which represents compensation for lost future earnings (\$607,989.00), pain and suffering (\$235,000.00), and life care expenses for Year One (\$298,905.38), shall be payable to Regions Bank, as Trustee of the Non-Reversionary Trust established for the benefit of Mario Rodriguez, as provided for in Appendix A.

A lump sum payment in the amount of \$232,140.00, which represents trust seed funds equal to the Present Year cost of skilled nursing/attendant care in Compensation Year 12 (2018), shall be payable to Regions Bank, as Trustee of the Grantor Reversionary Trust established for the benefit of Mario Rodriguez, as provided for in Appendix A.

A lump sum payment in the amount of \$112,673.44, representing compensation for satisfaction of the State of Washington Medicaid lien, payable jointly to petitioner and

State of Washington
Department of Social and Health Service
Health & Recovery Services Admn., Casualty Unit

626 8th Avenue, SE
Olympia, WA 98504
Attn: Holly Filhart

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

A lump sum payment in the amount of \$161,472.09, representing compensation for satisfaction of the State of Missouri Medicaid lien, payable jointly to petitioner and

State of Missouri
Department of Social Services
Division of Medical Services
Third Party Liability Unit
615 Howerton Court
Jefferson City, MO 65109
Attn: Tammy Meyer

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

3. **Annuity:**

Section 15(f)(4) requires that payment of compensation be based on the net present value of the elements of compensation. One way of discounting to net present value is to use the cost of an annuity to provide periodic payments to meet projected needs of a petitioner for the remainder of his life. Special masters are specifically empowered by §15(f)(4) of the Act to order that the compensation awarded under the Program be used to purchase an annuity. The court considers it in Mario Rodriguez's best interest to order that the compensation for life care items awarded beyond year one post-judgment be paid in the form of an annuity, which annuity shall be purchased as soon as practicable after entry of judgment.

The court awards an amount sufficient to purchase an annuity contract(s), subject to the conditions described below, that will provide payments for the life care items contained in the life care plan, as illustrated by the attached chart, paid to the life insurance company from which the annuity(ities) will be purchased. 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(ities), which annuity(ities) shall make payments directly to Regions Bank, as Trustee of the Grantor Reversionary Trust established for the benefit of Mario Rodriguez only so long as Mario Rodriguez is alive at the time a particular payment is due, for all items of care set forth in the attached chart.

At the Secretary's sole discretion, the periodic payments may be provided to petitioner in monthly, quarterly, annual or other installments. The "annual amounts" set forth in the attached chart describe only the total yearly sum to be paid to the trustee and do not require that the

payment be made in one annual installment.

The annuity company must meet the following criteria:²

- 1) has a minimum of \$250,000,000 of capital and surplus, exclusive of any mandatory security valuation reserve; and
- 2) has one of the following ratings from two of the following rating organizations:
 - a) A.M. Best Company: A+, A+g, A+p, A+r or A+s;
 - b) Moody's Investors 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.

4. **Life Expectancy:**

A finding on life expectancy is unnecessary because this annuity will be a lifetime annuity. The Trustee of the Grantor Reversionary Trust will continue to receive the annuity payments from the Life Insurance Company(ies) only so long as Mario is alive at the time that a particular payment is due. Petitioner shall provide written notice to the Trustee of the Grantor Reversionary Trust, to the Secretary of Health and Human Services, and to the Life Insurance Company(ies) within twenty (20) days of Mario's death.

CONCLUSION

Petitioner, as legal representative of Mario Rodriguez, is entitled to an award under the Vaccine Program to provide for compensable expenses as stated in the attached Appendix A. Petitioner's award of compensation shall be in the form of an annuity as provided for in paragraph 3 above, together with the following lump sum payments:

1. A lump sum payment in the amount of \$1,141,894.38, representing compensation for lost future earnings (\$607,989.00), pain and suffering (\$235,000.00), and life care expenses for Year One (\$298,905.38), shall be payable to Regions Bank, as Trustee of the Non-Reversionary Trust established for the benefit of Mario Rodriguez, as provided for in Appendix A.

²These criteria are taken from the December 1990 draft of the Uniform Periodic Payment of Judgments Act.

2. A lump sum payment in the amount of \$232,140.00, which represents trust seed funds equal to the Present Year cost of skilled nursing/attendant care in Compensation Year 12 (2018), shall be payable to Regions Bank, as Trustee of the Grantor Reversionary Trust established for the benefit of Mario Rodriguez, as provided for in Appendix A.
3. A lump sum payment in the amount of \$112,673.44, representing reimbursement of the state's Medicaid lien, payable jointly to petitioner and the State of Washington.
4. A lump sum payment in the amount of \$161,472.09, representing reimbursement of the state's Medicaid lien, payable jointly to petitioner and the State of Missouri.

Based on the foregoing, this Court adopts the parties's Proffer and finds, based on the evidence adduced at the Hearing on damages, that petitioner is entitled to compensation and in the amount and on the terms set forth therein. The Clerk of the Court is directed to enter judgment according to this decision.³

IT IS SO ORDERED.



Gary J. Golkiewicz
Chief Special Master

³Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a U.S. Court of Federal Claims judge.

ITEMS OF COMPENSATION	G.R.	Lump Sum Compensation Year 1	Compensation Year 2	Compensation Years 3-5	Compensation Year 6	Compensation Years 7-9	Compensation Year 10	Compensation Year 11
THIRP Premium (Corrected & Updated)	4%	2007	2008	2009-2011	2012	2013-2015	2016	2017
THIRP Deductible	4%	4,260.00	4,260.00	4,260.00	4,260.00	4,260.00	4,260.00	4,260.00
THIRP Co-insurance Max	4%	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00
THIRP Drug Deductible	4%	3,000.00	3,000.00	3,000.00	3,000.00	3,000.00	3,000.00	3,000.00
Medicare Part A Premium Ded (Updated)	4%	100.00	100.00	100.00	100.00	100.00	100.00	100.00
Medicare Part B Premium & Ded (Updated)	4%	*	*	*	*	*	*	*
Medicare Part D Premium & Exp. (Updated)	4%	*	*	*	*	*	*	*
Medigap: Farm Bureau Plan F (Updated)	4%	*	*	*	*	*	*	*
Physiatrist (THIRP Co-Pay)	4%	60.00	60.00	60.00	60.00	60.00	60.00	60.00
Physiatrist Parking	4%	10.00	10.00	10.00	10.00	10.00	10.00	10.00
Labs	4%	*	*	*	*	*	*	*
Urinalysis	4%	*	*	*	*	*	*	*
MRI	4%	*	*	*	*	*	*	*
Urologist (Corrected THIRP Co-pay)	4%	30.00	30.00	30.00	30.00	30.00	30.00	30.00
Urologist Parking	4%	10.00	10.00	10.00	10.00	10.00	10.00	10.00
Cystometro-gram	4%	*	*	*	*	*	*	*
Renal Ultrasound	4%	*	*	*	*	*	*	*
Routine Medical Care (Corrected by JP)	4%	*	*	*	*	*	*	*
Pneumovax	4%	*	*	*	*	*	*	*
Pulmon-ologist	4%	*	*	*	*	*	*	*
Orthopedist	4%	*	*	*	*	*	*	*
Scoliosis X-ray	4%	*	*	*	*	*	*	*
X-rays	4%	*	*	*	*	*	*	*
Gastroenterologist	4%	*	*	*	*	*	*	*
Replace G-button	4%	*	*	*	*	*	*	*
G-Tube Revision	4%	*	*	*	*	*	*	*
Scoliosis Surgery	4%	*	*	*	*	*	*	*
Scoliosis Brace	4%	*	*	*	*	*	*	*
Bladder Augmentation	4%	*	*	*	*	*	*	*
Hospital/Treatment Complications	4%	*	*	*	*	*	*	*
PT Eval (THIRP 2K Max Applied after 2015)	4%	299.00	299.00	299.00	299.00	299.00	99.00	99.00

ITEMS OF COMPENSATION	G.R.	Lump Sum Compensation Year 1	Compensation Year 2	Compensation Years 3-5	Compensation Year 6	Compensation Years 7-9	Compensation Year 10	Compensation Year 11
		2007	2008	2009-2011	2012	2013-2015	2016	2017
Wipes	4%	91.25	91.25	91.25	91.25	91.25	91.25	91.25
Non-sterile Gloves	4%	87.60	87.60	87.60	87.60	87.60	87.60	87.60
Skin Barrier Cream	4%	108.00	108.00	108.00	108.00	108.00	108.00	108.00
CHUX	4%	335.80	335.80	335.80	335.80	335.80	335.80	335.80
Bilateral AFOs	4%	*						
Bilateral Resting Hand & Wrist Splint	4%	*						
Bilateral Benik Splints	4%	*						
Reciprocating Gait Orthoses	4%	*						
Assistive Tech Eval	4%	350.00	116.67	116.67	116.67	116.67	116.67	116.67
Environmental Control	4%	5,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00
Quickie Power Wheelchair	4%	*						
Jay 2 Cushion	4%	*						
Power WC Maint.	4%	1,400.00	1,400.00	1,400.00	1,400.00	1,400.00	1,400.00	1,400.00
Gizmo Tilt N Space Folding WC	4%	*						
Jay Back Cushion	4%	*						
Jay 2 Cushion	4%	*						
Backpack	4%	*						
Folding WC Maint	4%	500.00	500.00	500.00	500.00	500.00	500.00	500.00
Case Mngmt	4%	6,120.00	6,120.00	6,120.00	6,120.00	6,120.00	6,120.00	6,120.00
Supp. & Educational Counseling	4%	1,260.00	1,260.00	1,260.00	1,260.00	1,260.00	1,260.00	1,260.00
Supp. & Educational Counseling for Parents	4%	630.00	315.00	315.00	315.00	315.00	315.00	315.00
Home Mods (Now in Yr 1)	4%	35,000.00						
Driving Assessment/ Test	4%							1,000.00
Special Needs Driving Instruction	4%							1,200.00
Modified Van	4%	39,605.00						31,684.00
Trust Seed/ Skilled Nursing/ Attendant Care	4%	390,700.00	158,560.00	158,560.00	158,560.00	158,560.00	158,560.00	158,560.00
Lost Future Earnings		607,989.00						
Pain and Suffering		235,000.00						
State of Washington Medicaid Lien		112,673.44						
State of Missouri Medicaid Lien		161,472.09						
Annual Totals		1,648,179.91	210,290.71	202,091.71	205,091.71	202,091.71	181,391.71	215,275.71

ITEMS OF COMPENSATION	G.R.	*	Lump Sum	Compensation						
			Year 1	Year 2	Years 3-5	Year 6	Years 7-9	Year 10	Year 11	
			2007	2008	2009-2011	2012	2013-2015	2016	2017	

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 Regions Bank, as Trustee of a Grantor Reversionary Trust established for the benefit of Mario Arturo Rodriguez for Trust seed funds (Present Yr Cost of Skilled Nursing/Attendant Care in Yr 2018): \$232,140.00. As soon as practicable after entry of judgment, respondent shall make the following payment to Regions Bank, as Trustee of a Non-Reversionary Trust established for the benefit of Mario Arturo Rodriguez for Yr 1 Life Care Expenses (\$298,905.38), lost future earnings (\$607,989.00) and P&S (\$235,000.00): \$1,141,894.38. As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of Washington, Department of Social and Health Services: Att. Ms. Holly Filhart: \$112,673.44. As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of Missouri, Department of Social Services, Att. Ms. Tammy Meyer: \$161,472.09. Annual amounts payable through annuity for future Compensation Years follow the anniversary of date of judgment. Annual amounts shall increase at the rate of four percent (4%), compounded annually from the date of judgment. Items denoted with an asterisk (*) covered by health insurance and/or Medicare.

ITEMS OF COMPENSATION	G.R.	*	Compensation Year 12	Compensation Years 13-17	Compensation Year 18	Compensation Year 19	Compensation Year 20	Compensation Year 21	Compensation Year 22
			2018	2019-2023	2024	2025	2026	2027	2028
THIRP Premium (Corrected & Updated)	4%	*	4,632.00	4,632.00	4,800.00	4,800.00	4,800.00		
THIRP Deductible	4%	*	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00		
THIRP Co-insurance Max	4%	*	3,000.00	3,000.00	3,000.00	3,000.00	3,000.00		
THIRP Drug Deductible	4%	*	100.00	100.00	100.00	100.00	100.00		
Medicare Part A Premium Ded (Updated)	4%	*							
Medicare Part B Premium & Ded (Updated)	4%	*							
Medicare Part D Premium & Exp. (Updated)	4%	*							
Medigap: Farm Bureau Plan F (Updated)	4%	*							
Physiatrist (THIRP Co-Pay)	4%	*	60.00	60.00	60.00	60.00	60.00	499.50	499.50
Physiatrist Parking	4%	*	10.00	10.00	10.00	10.00	10.00	10.00	10.00
Labs	4%	*						224.85	224.85
Urinalysis	4%	*						132.50	132.50
MRI	4%	*						4,195.55	839.11
Urologist (Corrected THIRP Co-pay)	4%	*	30.00	30.00	30.00	30.00	30.00	308.50	308.50
Urologist Parking	4%	*	10.00	10.00	10.00	10.00	10.00	10.00	10.00
Cystometro-gram	4%	*						2,411.00	2,411.00
Renal Ultrasound	4%	*						688.00	344.00
Routine Medical Care (Corrected by JP)	4%	*						320.00	320.00
Pneumovax	4%	*						65.00	13.00
Pulmon-ologist	4%	*						95.00	95.00
Orthopedist	4%	*							109.00
Scoliosis X-ray	4%	*							
X-rays	4%	*							100.00
Gastroenterologist	4%	*							100.00
Replace G-button	4%	*							
G-Tube Revision	4%	*							
Scoliosis Surgery	4%	*							
Scoliosis Brace	4%	*							
Bladder Augmentation	4%	*							
Hospital/Treatment Complications	4%	*						12,342.60	12,342.60
PT Eval (THIRP 2K Max Applied after 2015)	4%	*	99.00	99.00	99.00	99.00	99.00	299.00	299.00

ITEMS OF COMPENSATION	G.R.	*	Compensation Year 12	Compensation Years 13-17	Compensation Year 18	Compensation Year 19	Compensation Year 20	Compensation Year 21	Compensation Year 22
			2018	2019-2023	2024	2025	2026	2027	2028
Wipes	4%		91.25	91.25	91.25	91.25	91.25	91.25	91.25
Non-sterile Gloves	4%		87.60	87.60	87.60	87.60	87.60	87.60	87.60
Skin Barrier Cream	4%		108.00	108.00	108.00	108.00	108.00	108.00	108.00
CHUX	4%		335.80	335.80	335.80	335.80	335.80	335.80	335.80
Bilateral AFOS	4%	*							1,694.00
Bilateral Resting Hand & Wrist Splint	4%	*							70.40
Bilateral Benik Splints	4%	*						624.00	624.00
Reciprocating Gait Orthoses	4%	*				6,411.81	2,137.27	2,137.27	2,137.27
Assistive Tech Eval	4%		116.67	116.67	116.67	116.67	116.67	116.67	116.67
Environmental Control	4%		1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00
Quickie Power Wheelchair	4%	*					12,180.00	2,030.00	2,030.00
Jay 2 Cushion	4%	*						440.00	220.00
Power WC Maint.	4%		1,400.00	1,400.00	1,400.00	1,400.00	1,400.00	1,400.00	1,400.00
Gizmo Tilt N Space Folding WC	4%	*							
Jay Back Cushion	4%	*						312.00	156.00
Jay 2 Cushion	4%	*						440.00	220.00
Backpack	4%	*						38.95	19.48
Folding WC Maint	4%		500.00	500.00	500.00	500.00	500.00	500.00	500.00
Case Mngmt	4%		6,120.00	6,120.00	6,120.00	3,060.00	3,060.00	3,060.00	3,060.00
Supp. & Educational Counseling	4%		1,260.00						
Supp. & Educational Counseling for Parents	4%		315.00						
Home Mods (Now in Yr 1)	4%								
Driving Assessment/ Test	4%								
Special Needs Driving Instruction	4%								
Modified Van	4%		3,168.40	3,168.40	3,168.40	3,168.40	3,168.40	3,168.40	3,168.40
Trust Seed/ Skilled Nursing/ Attendant Care	4%		-	232,140.00	232,140.00	232,140.00	232,140.00	232,140.00	232,140.00
Lost Future Earnings									
Pain and Suffering									
State of Washington Medicaid Lien									
State of Missouri Medicaid Lien									
Annual Totals			26,372.11	256,937.11	257,105.11	260,456.92	268,362.38	291,806.18	285,941.06

ITEMS OF COMPENSATION	G.R.	Compensation Year 12	Compensation Years 13-17	Compensation Year 18	Compensation Year 19	Compensation Year 20	Compensation Year 21	Compensation Year 22
	*	2018	2019-2023	2024	2025	2026	2027	2028

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 Regions Bank, as Trustee of a Grantor Reversionary Trust established for the benefit of Mario Arturo Rodriguez for

Trust seed funds (Present Yr Cost of Skilled Nursing/Attendant Care in Yr 2018): \$232,140.00.

As soon as practicable after entry of judgment, respondent shall make the following payment to Regions Bank, as Trustee of a Non-Reversionary Trust established for the benefit of Mario Arturo Rodriguez for

Yr 1 Life Care Expenses (\$298,905.38), lost future earnings (\$607,989.00) and P&S (\$235,000.00): \$1,141,894.38.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of Washington, Department of Social and Health Services, Att. Ms. Holly Filhart: \$112,673.44.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of Missouri, Department of Social Services, Att. Ms. Tammy Meyer: \$161,472.09.

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

Annual amounts shall increase at the rate of four percent (4%), compounded annually from the date of judgment.

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

ITEMS OF COMPENSATION	G.R.	*	Compensation Year 23	Compensation Year 24	Compensation Year 25	Compensation Year 26	Compensation Year 27	Compensation Years 28-30	Compensation Year 31
Wipes	4%		2029	2030	2031	2032	2033	2034-2036	2037
Non-sterile Gloves	4%		91.25	91.25	91.25	91.25	91.25	91.25	91.25
Skin Barrier Cream	4%		87.60	87.60	87.60	87.60	87.60	87.60	87.60
CHUX	4%		108.00	108.00	108.00	108.00	108.00	108.00	108.00
Bilateral AFOs	4%	*	335.80	335.80	335.80	335.80	335.80	335.80	335.80
Bilateral Resting Hand & Wrist Splint	4%	*	847.00	847.00	847.00	847.00	847.00	847.00	847.00
Bilateral Benk Splints	4%	*	23.47	23.47	23.47	23.47	23.47	23.47	23.47
Reciprocating Gait Orthoses	4%	*	624.00	624.00	624.00	624.00	624.00	624.00	624.00
Assistive Tech Eval	4%	*	2,137.27	2,137.27	2,137.27	2,137.27	2,137.27	2,137.27	2,137.27
Assistive Tech Eval	4%		116.67	116.67	116.67	116.67	116.67	116.67	116.67
Environmental Control	4%		1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00
Quickie Power Wheelchair	4%	*	2,030.00	2,030.00	2,030.00	2,030.00	2,030.00	2,030.00	2,030.00
Jay 2 Cushion	4%	*	220.00	220.00	220.00	220.00	220.00	220.00	220.00
Power WC Maint.	4%		1,400.00	1,400.00	1,400.00	1,400.00	1,400.00	1,400.00	1,400.00
Gizmo Tilt N Space Folding WC	4%	*	1,400.00	1,400.00	1,400.00	1,400.00	1,400.00	1,400.00	1,400.00
Jay Back Cushion	4%	*	156.00	156.00	156.00	156.00	156.00	156.00	156.00
Jay 2 Cushion	4%	*	220.00	220.00	220.00	220.00	220.00	220.00	220.00
Backpack	4%	*	19.48	19.48	19.48	19.48	19.48	19.48	19.48
Folding WC Maint	4%		500.00	500.00	500.00	500.00	500.00	500.00	500.00
Case Mngmt	4%		3,060.00	3,060.00	3,060.00	3,060.00	3,060.00	3,060.00	3,060.00
Supp. & Educational Counseling	4%								
Supp. & Educational Counseling for Parents	4%								
Home Mods (Now in Yr 1)	4%								
Driving Assessment/ Test	4%								
Special Needs Driving Instruction	4%								
Modified Van	4%		3,168.40	3,168.40	3,168.40	3,168.40	3,168.40	3,168.40	3,168.40
Trust Seed/ Skilled Nursing/ Attendant Care	4%		232,140.00	232,140.00	232,140.00	232,140.00	232,140.00	232,140.00	232,140.00
Lost Future Earnings									
Pain and Suffering									
State of Washington Medicaid Lien									
State of Missouri Medicaid Lien									
Annual Totals			284,959.93	285,331.93	296,782.28	286,760.23	289,480.23	287,148.80	292,948.80

Appendix A: Items of Compensation for Mario Arturo Rodriguez

ITEMS OF COMPENSATION	G.R.	Compensation Year 23 2029	Compensation Year 24 2030	Compensation Year 25 2031	Compensation Year 26 2032	Compensation Year 27 2033	Compensation Years 28-30 2034-2036	Compensation Year 31 2037
	*							

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 Regions Bank; as Trustee of a Grantor Reversionary Trust established for the benefit of Mario Arturo Rodriguez for Trust seed funds (Present Yr Cost of Skilled Nursing/Attendant Care in Yr 2018): \$232,140.00.
 As soon as practicable after entry of judgment, respondent shall make the following payment to Regions Bank; as Trustee of a Non-Reversionary Trust established for the benefit of Mario Arturo Rodriguez for Yr 1 Life Care Expenses (\$298,905.38), lost future earnings (\$607,989.00) and P&S (\$235,000.00): \$1,141,894.38.
 As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of Washington, Department of Social and Health Services, Att. Ms. Holly Filhart: \$112,673.44.
 As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of Missouri, Department of Social Services, Att. Ms. Tammy Meyer: \$161,472.09.
 Annual amounts payable through annuity for future Compensation Years follow the anniversary of date of judgment. Annual amounts shall increase at the rate of four percent (4%), compounded annually from the date of judgment. Items denoted with an asterisk (*) covered by health insurance and/or Medicare.

ITEMS OF COMPENSATION	G.R.	Compensation Years 32-46	Compensation Years 47-49	Compensation Years 50-51	Compensation Years 52-53	Compensation Year 54	Compensation Year 55	Compensation Year 56
Wipes	4%	91.25	91.25	91.25	91.25	91.25	91.25	91.25
Non-sterile Gloves	4%	87.60	87.60	87.60	87.60	87.60	87.60	87.60
Skin Barrier Cream	4%	108.00	108.00	108.00	108.00	108.00	108.00	108.00
CHUX	4%	335.80	335.80	335.80	335.80	335.80	335.80	335.80
Bilateral AFOs	4%	847.00	847.00	847.00	847.00	847.00	847.00	847.00
Bilateral Resting Hand & Wrist Splint	4%	23.47	23.47	23.47	23.47	23.47	23.47	23.47
Bilateral Benik Splints	4%	624.00	624.00	624.00	624.00	624.00	624.00	624.00
Reciprocating Gait Orthoses	4%	2,137.27	2,137.27	2,137.27	2,137.27	2,137.27	2,137.27	2,137.27
Assistive Tech Eval	4%	116.67	116.67	116.67	116.67	116.67	116.67	116.67
Environmental Control	4%	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00
Quickie Power Wheelchair	4%	2,030.00	2,030.00	2,030.00	2,030.00	2,030.00	2,030.00	2,030.00
Jay 2 Cushion	4%	220.00	220.00	220.00	220.00	220.00	220.00	220.00
Power WC Maint.	4%	1,400.00	1,400.00	1,400.00	1,400.00	1,400.00	1,400.00	1,400.00
Gizmo Tilt N Space Folding WC	4%	1,166.67	1,166.67	1,166.67	1,166.67	1,166.67	1,166.67	1,400.00
Jay Back Cushion	4%	156.00	156.00	156.00	156.00	156.00	156.00	156.00
Jay 2 Cushion	4%	220.00	220.00	220.00	220.00	220.00	220.00	220.00
Backpack	4%	19.48	19.48	19.48	19.48	19.48	19.48	19.48
Folding WC Maint	4%	500.00	500.00	500.00	500.00	500.00	500.00	500.00
Case Mngmt	4%	3,060.00	3,060.00	3,060.00	3,060.00	3,060.00	3,060.00	3,060.00
Supp. & Educational Counseling	4%							
Supp. & Educational Counseling for Parents	4%							
Home Mods (Now in Yr 1)	4%							
Driving Assessment/ Test	4%							
Special Needs Driving Instruction	4%							
Modified Van	4%	3,168.40	3,168.40	3,168.40	3,168.40	3,168.40	3,168.40	3,168.40
Trust Seed/ Skilled Nursing/ Attendant Care	4%	232,140.00	232,140.00	232,140.00	232,140.00	232,140.00	232,140.00	232,140.00
Lost Future Earnings								
Pain and Suffering								
State of Washington Medicaid Lien								
State of Missouri Medicaid Lien								
Annual Totals		287,535.47	287,148.80	286,982.13	286,788.84	286,396.28	286,321.88	284,743.17

ITEMS OF COMPENSATION	G.R.	Compensation Years 32-46	Compensation Years 47-49	Compensation Years 50-51	Compensation Years 52-53	Compensation Year 54	Compensation Year 55	Compensation Year 56
	*	2038-2052	2053-2055	2056-2057	2058-2059	2060	2061	2062

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 Regions

Bank, as Trustee of a Grantor Reversionary Trust established for the benefit of Mario Arturo Rodriguez for

Trust seed funds (Present Yr Cost of Skilled Nursing/Attendant Care in Yr 2018): \$232,140.00.

As soon as practicable after entry of judgment, respondent shall make the following payment to Regions

Bank, as Trustee of a Non-Reversionary Trust established for the benefit of Mario Arturo Rodriguez for

Yr 1 Life Care Expenses (\$298,905.38), lost future earnings (\$607,989.00) and P&S (\$235,000.00): \$1,141,894.38.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner

and the State of Washington, Department of Social and Health Services, Att. Ms. Holly Filhart: \$112,673.44.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner

and the State of Missouri, Department of Social Services, Att. Ms. Tammy Meyer: \$161,472.09.

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

Annual amounts shall increase at the rate of four percent (4%), compounded annually from the date of judgment.

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

Appendix A: Items of Compensation for Mario Arturo Rodriguez

ITEMS OF COMPENSATION	G.R.	*	Compensation Year 57	Compensation Years 58-62	Compensation Years 63-67	Compensation Years 68-72	Compensation Years 73-Life
THIRP Premium (Corrected & Updated)	4%	*	2063	2064-2068	2069-2073	2074-2078	2079-Life
THIRP Deductible	4%	*					
THIRP Co-insurance Max	4%	*					
THIRP Drug Deductible	4%	*					
Medicare Part A Premium Ded (Updated)	4%	*		4,920.00	4,920.00	4,920.00	4,920.00
Medicare Part B Premium & Ded (Updated)	4%	*		1,122.00	1,122.00	1,122.00	1,122.00
Medicare Part D Premium & Exp. (Updated)	4%	*		4,113.98	4,113.98	4,113.98	4,113.98
Medigap: Farm Bureau Plan F (Updated)	4%	*		1,608.00	1,865.00	2,062.00	2,212.00
Physiatrist (THIRP Co-Pay)	4%	*	499.50				
Physiatrist Parking	4%	*	10.00	10.00	10.00	10.00	10.00
Labs	4%	*	224.85				
Urinalysis	4%	*	132.50				
MRI	4%	*					
Urologist (Corrected THIRP Co-pay)	4%	*	308.50				
Urologist Parking	4%	*	10.00	10.00	10.00	10.00	10.00
Cystometro-gram	4%	*	2,411.00				
Renal Ultrasound	4%	*	344.00				
Routine Medical Care (Corrected by JP)	4%	*	320.00				
Pneumovax	4%	*					
Pulmon-ologist	4%	*	95.00				
Orthopedist	4%	*	21.80				
Scoliosis X-ray	4%	*					
X-rays	4%	*	100.00				
Gastroenterologist	4%	*					
Replace G-button	4%	*					
G-Tube Revision	4%	*					
Scoliosis Surgery	4%	*					
Scoliosis Brace	4%	*					
Bladder Augmentation	4%	*					
Hospital/Treatment Complications	4%	*	12,342.60				
PT Eval (THIRP 2K Max Applied after 2015)	4%	*	299.00				

Appendix A: Items of Compensation for Mario Arturo Rodriguez

ITEMS OF COMPENSATION	G.R.	Compensation Year 57	Compensation Years 58-62	Compensation Years 63-67	Compensation Years 68-72	Compensation Years 73-Life
PT (THIRP 2K Max Applied)	4%	2063	2064-2068	2069-2073	2074-2078	2079-Life
OT Eval	4%	900.00				
OT (THIRP 2K Max Applied after 2015)	4%	299.00				
ST Eval	4%	900.00				
ST	4%	*				
Gait Training	4%	*				
Wheelchair Clinic	4%	*				
Prevacid (THIRP Drug Ded. Corrected)	4%	1,581.54				
Magic Bullet Suppository	4%	264.63	264.63	264.63	264.63	264.63
Miralax (Co-pay Corrected)	4%	680.44				
Oxybutynin (Co-pay Corrected)	4%	501.04				
Bactrim BID	4%	51.98				
Warm Mist Humidifier	4%	34.99	34.99	34.99	34.99	34.99
Vicks VapoSteam	4%	215.76	215.76	215.76	215.76	215.76
Flovent 44 mcg (Co-pay Corrected)	4%	629.97				
Flovent 110 mcg	4%	284.97				
Xopenex	4%	3,249.58				
Adjustable Bed	4%	*				
Extra Sheets	4%	31.00	31.00	31.00	31.00	31.00
Gal-lite Mattress Overlay	4%	*				
Over Bed Table	4%	13.40	13.40	13.40	13.40	13.40
Pediatric/ Lecky Stander/ Adult Standers	4%	*				
Rifton Pacer Gait Trainer	4%	*				
Lenx Swing	4%					
Tricycle	4%					
Rifton Seating System	4%					
Flamingo Shower Chair	4%	*				
Hand Held Shower	4%	11.59	11.59	11.59	11.59	11.59
Tumble Forms Training Balls	4%					
Air Pump	4%	7.39	7.39	7.39	7.39	7.39
Exercise Mat and Platform	4%	89.25	89.25	89.25	89.25	89.25

Appendix A: Items of Compensation for Mario Arturo Rodriguez

ITEMS OF COMPENSATION	G.R.	*	Compensation Year 57	Compensation Years 58-62	Compensation Years 63-67	Compensation Years 68-72	Compensation Years 73-Life
Transfer Board	4%		2063 7.19	2064-2068 7.19	2069-2073 7.19	2074-2078 7.19	2079-Life 7.19
Portable Wheelchair Ramp	4%		28.99	28.99	28.99	28.99	28.99
Reacher	4%		10.60	10.60	10.60	10.60	10.60
Trixie Lift	4%	*					
Slings	4%	*	150.00				
Equip. Maintenance	4%		150.00	150.00	150.00	150.00	150.00
Devibliss Stationary Suction Machine	4%	*					
Devibliss Portable Suction Machine	4%	*					
Portable Suction Machine Battery	4%	*	358.00				
Devibliss Suction Machine Filters	4%	*	156.00				
Nebulizer	4%	*	89.50				
Nebulizer Kits	4%	*	105.12				
Nebulizer Aerosolizer	4%	*	84.00				
Suction Catheter Kit	4%	*	960.96				
Suction Catheter Canister	4%	*	217.00				
Suction Connector Tubing	4%	*	202.80				
Suction Machine Maint.	4%		100.00	100.00	100.00	100.00	100.00
Feeding Pump	4%	*					
60 cc Syringes	4%	*					
2x2 Gauze Sponges	4%	*					
Extension Set G-Tube	4%	*					
Feeding Bags	4%	*					
Hydrogen Peroxide	4%	*					
Sterile Cotton Tip Applicator	4%	*					
Pediasure/ Ensure	4%	*	1,323.13	1,323.13	1,323.13	1,323.13	1,323.13
Assistive Dining Supplies	4%		75.00	75.00	75.00	75.00	75.00
Catheter	4%	*	2,018.45				
Bedaine Swab Sticks	4%	*	817.60				
Lubricant	4%	*	780.00				
Incontinence Briefs	4%		540.20	540.20	540.20	540.20	540.20
Urinal	4%		4.40	4.40	4.40	4.40	4.40

Appendix A: Items of Compensation for Mario Arturo Rodriguez

ITEMS OF COMPENSATION	G.R.	* Compensation Year 57	Compensation Years 58-62	Compensation Years 63-67	Compensation Years 68-72	Compensation Years 73-Life
Wipes	4%	2063	2064-2068	2069-2073	2074-2078	2079-Life
Non-sterile Gloves	4%	91.25	91.25	91.25	91.25	91.25
Skin Barrier Cream	4%	87.60	87.60	87.60	87.60	87.60
CHUX	4%	108.00	108.00	108.00	108.00	108.00
Bilateral AFOs	4%	335.80	335.80	335.80	335.80	335.80
Bilateral Resting Hand & Wrist Splint	4%	*				
Bilateral Benik Splints	4%	*				
Reciprocating Gait Orthoses	4%	624.00				
Assistive Tech Eval	4%	2,137.27	2,137.27	2,137.27	2,137.27	2,137.27
Environmental Control	4%	116.67				
Quickie Power Wheelchair	4%	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00
Jay 2 Cushion	4%	*				
Power WC Maint.	4%	220.00				
Gizmo Tilt N Space Folding WC	4%	1,400.00	1,400.00	1,400.00	1,400.00	1,400.00
Jay Back Cushion	4%	*				
Jay 2 Cushion	4%	156.00				
Backpack	4%	220.00				
Folding WC Maint	4%	*				
Case Mngmt	4%	19.48	19.48	19.48	19.48	19.48
Supp. & Educational Counseling	4%	500.00	500.00	500.00	500.00	500.00
Supp. & Educational Counseling for Parents	4%	3,060.00	3,060.00	3,060.00	3,060.00	3,060.00
Home Mods (Now in Yr 1)	4%					
Driving Assessment/ Test	4%					
Special Needs Driving Instruction	4%					
Modified Van	4%					
Trust Seed/ Skilled Nursing/ Attendant Care	4%	3,168.40	3,168.40	3,168.40	3,168.40	3,168.40
Lost Future Earnings	4%	232,140.00	232,140.00	232,140.00	232,140.00	232,140.00
Pain and Suffering						
State of Washington Medicaid Lien						
State of Missouri Medicaid Lien						
Annual Totals		280,428.69	258,739.30	258,996.30	259,193.30	259,343.30

ITEMS OF COMPENSATION	G.R.					
	*	Compensation Year 57	Compensation Years 58-62	Compensation Years 63-67	Compensation Years 68-72	Compensation Years 73-Life
		2063	2064-2068	2069-2073	2074-2078	2079-Life

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 Regions Bank, as Trustee of a Grantor Reversionary Trust established for the benefit of Mario Arturo Rodriguez for Trust seed funds (Present Yr Cost of Skilled Nursing/Attendant Care in Yr 2018): \$232,140.00. As soon as practicable after entry of judgment, respondent shall make the following payment to Regions Bank, as Trustee of a Non-Reversionary Trust established for the benefit of Mario Arturo Rodriguez for Yr 1 Life Care Expenses (\$298,905.38), lost future earnings (\$607,989.00) and P&S (\$235,000.00): \$1,141,894.38. As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of Washington, Department of Social and Health Services: Att. Ms. Holly Filhart: \$112,673.44. As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and the State of Missouri, Department of Social Services, Att. Ms. Tammy Meyer: \$161,472.09. Annual amounts payable through annuity for future Compensation Years follow the anniversary of date of judgment. Annual amounts shall increase at the rate of four percent (4%), compounded annually from the date of judgment. Items denoted with an asterisk (*) covered by health insurance and/or Medicare.