

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 04-997V

Filed: January 21, 2010

Not To Be Published

LAURA M. MERSBURGH, parent and next *
friend of ELIJAH MERSBURGH, a minor, * Proffer; DTaP; Epilepsy

Petitioner, *

v. *

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

Respondent. *

Richard Gage, Richard Gage, PC, Cheyenne, WY for petitioner.

Althea Walker Davis, United States Department of Justice, Washington, DC, for respondent.

DECISION¹

GOLKIEWICZ, Chief Special Master.

The undersigned previously determined that petitioner is entitled to compensation. Ruling on

¹ Because this decision contains a reasoned explanation for the undersigned’s action in this case, the undersigned intends to post this decision on the United States Court of Federal Claims’ 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.

Entitlement, filed July 10, 2007. The parties have worked diligently towards resolving the damages issue informally. On January 12, 2010 respondent filed Respondent's Proffer on Award for Compensation (hereinafter Respondent's Proffer) for the items over which no dispute exists. Petitioner in a filing dated January 13, 2010 indicated her notice that she accepts the award set forth in Respondent's Proffer.

After a complete review of the record, the court finds that petitioner is entitled to compensation 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, Items for Compensation for Elijah Mersburgh, attached as **Tab A** to Respondent's Proffer (hereinafter **Tab A: Items of Compensation**). The court is convinced, based on its experience and information in the record, that this award shall provide reasonable compensation to cover petitioner's vaccine-related expenses.

Additionally, as the parties were unable to reach agreement concerning an appropriate award for pain and suffering, following the parties' arguments during a telephonic status conference on December 1, 2009 the undersigned orally ruled that petitioner was entitled to an award of \$100,000.00 in past pain and suffering and \$150,000.00 in future pain and suffering. See respondent's Status Report filed January 12, 2010. The total award for pain and suffering "after reducing th[e] award for future pain and suffering to its net present value, results in a lump sum award of \$190,802.00." Id. Petitioner, in her January 13, 2010 filing, indicated her notice that she accepts the undersigned's award for pain and suffering as outlined in respondent's Status Report filed January 12, 2010.

Form of Compensation Award

1. **Lump Sum:**

A lump sum payment of \$1,080,730.31, representing life care expenses for Year One (\$288,598.31), lost future earnings (\$601,330.00), and pain and suffering (\$190,802.00), in the form of a check payable to Laura M. Mersburgh, as guardian/conservator of Elijah Mersburgh's estate, for the benefit of Elijah Mersburgh, as provided for in **Tab A: Items of Compensation**, as well as the undersigned's December 9, 2010 Oral Ruling on Pain and Suffering discussed above.

Petitioner is awarded a lump sum payment of \$481.22, representing compensation for past unreimbursable expenses payable to, petitioner, Laura M. Mersburgh as provided for in **Tab A: Items of Compensation**.

Additionally, petitioner is awarded a lump sum payment of \$32,641.83, representing compensation for satisfaction of the State of Hawaii Medicaid lien, payable jointly to Laura M. Mersburgh as guardian/conservator of Elijah's estate, and

Department of Human Services
ACS Hawaii Medicaid
TPL Recovery Unit
P.O. Box 1480
Honolulu, Hawaii 96806-1480

2. **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 her 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 Elijah Mersburgh's best interest to order that the compensation for life care items be awarded beyond one year 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,² subject to the conditions described below, that will provide payment for the life care items contained in the life care plan, reflected by the attached chart, ***Tab A: Items of Compensation***, paid to the life insurance company³ from which the annuity 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, which annuity shall make payments directly to Laura M. Mersburgh, as guardian/conservator of Elijah Mersburgh's estate, for the benefit of Elijah Mersburgh, or to the successor guardian/conservator of Elijah Mersburgh's estate, for the benefit of Elijah Mersburgh, only so long as Elijah Mersburgh is alive at the time a particular payment is due.

At the Secretary's sole discretion, the periodic payments may be provided to petitioner in monthly, quarterly, annual or other installments. The "annual amounts," with the rate reflected in the attached chart, describe only the total yearly sum to be paid to the guardians/conservators and do not require that the payment be made in one annual installment.

The growth rates outlined in ***Tab A: Items of Compensation*** should be applied to the life care

² To satisfy the conditions set forth herein, in respondent's discretion, respondent may purchase one or more annuity contracts from one or more life insurance companies.

³The Life Insurance Company must have a minimum of \$250,000,000 capital and surplus, exclusive of any mandatory security valuation reserve. The Life Insurance Company must have one of the following ratings from two of the following organizations;

- a) A.M. Best Company: A++, 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.

items. Thus, the benefits illustrated in *Tab A: Items of Compensation* that are to be paid through annuity payments should grow at four percent (4%) and six percent (6%), as specified in the chart, compounded annually from the date of judgment for all life care items.

The guardian/conservator will continue to receive the annuity payments from the Life Insurance Company only so long as Elijah is alive at the time that a particular payment is due. Ms. Mersburgh or the successor guardian/conservator of Elijah Mersburgh's estate shall provide written notice to the Secretary of Health and Human Services and the Life Insurance Company within twenty (20) days of Elijah's death.

3. **Guardianship:**

As agreed to by the parties, no payments shall be made until petitioner provides respondent with documentation establishing that she has been appointed as the guardian/conservator of Elijah Mersburgh's estate.

CONCLUSION

Petitioner Laura M. Mersburgh, parent and next friend of Elijah Mersburgh, is entitled to an award under the Vaccine Program to provide for compensable expenses. Petitioner's award of compensation shall be in the following form:

- 1) A lump sum payment of \$1,080,730.31, representing life care expenses for Year One (\$288,598.31), lost future earnings (\$601,330.00), and pain and suffering (\$190,802.00), in the form of a check payable to Laura M. Mersburgh, as guardian/conservator of Elijah Mersburgh's estate, for the benefit of Elijah Mersburgh, as provided herein.
- 2) A lump sum payment of \$481.22, representing compensation for past unreimbursable expenses payable to, petitioner, Laura M. Mersburgh.
- 3) A lump sum payment of \$32,641.83, representing compensation for satisfaction of the State of Hawaii Medicaid lien, payable jointly to Laura M. Mersburgh as guardian/conservator of Elijah's estate, and

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- 4) Additionally, the Secretary of Health and Human Services agrees to purchase an annuity contract subject to the conditions described herein, that will provide payment for the life care items contained in the life care plan for Elijah Mersburgh, as reflected by the attached chart, *Tab A: Items of Compensation*, which annuity shall be purchased as soon as practicable after

entry of judgment.

The undersigned recognizes the good efforts of counsel. This was a difficult case, which was at times hard fought but always appropriately litigated. The clients' interests were well represented by respective counsel. Based on the foregoing, this Court adopts the parties' Proffer and finds that petitioner is entitled to compensation in the amount and on the terms set forth therein.

The Clerk of the Court is directed to enter judgment according to this decision.⁴

IT IS SO ORDERED.

s/ Gary J. Golkiewicz
Gary J. Golkiewicz
Chief Special Master

⁴ Pursuant 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.

TAB A



ITEMS OF COMPENSATION
ELIJAH MERSBURGH, D.O.B. 02-19-2001
CL. CT. NO. 04-997V

NO.	ITEM	GROWTH RATE	PAID IN CASH				
			2010	2011	2012	2013	2014
	<u>INSURANCE</u>						
1	HMSA BLUE CROSS BLUE SHIELD (INCLUDES \$100 DEDUCTIBLE)	6%	2,600.00	2,600.00	2,600.00	2,600.00	2,600.00
2	COBRA - HMSA BLUE CROSS BLUE SHIELD (INCLUDES \$100 DEDUCTIBLE)	6%					
3	MAX OUT OF POCKET	6%					
4	MEDICARE PART B	6%					
5	HUMANA CHOICE PPO, PREMIUM	6%					
6	HUMANA MAX OUT OF POCKET	6%					
7	MEDICARE PART D	6%					
	<u>MEDICAL CARE</u>						
8	NEUROLOGIST		0.00	0.00	0.00	0.00	0.00
9	EEG WITH SEDATION		0.00	0.00	0.00	0.00	0.00
10	3 TESLA MRI BRAIN		0.00	0.00	0.00	0.00	0.00
11	PET SCAN WITH SEDATION		0.00	0.00	0.00	0.00	0.00
12	LAB WORK LFT ELECTROLYTES CBC		0.00	0.00	0.00	0.00	0.00
13	DEPAKOTE LEVEL		0.00	0.00	0.00	0.00	0.00
14	AMBULANCE ER VISITS		0.00	0.00	0.00	0.00	0.00
15	ER VISITS		0.00	0.00	0.00	0.00	0.00
16	INPATIENT COMPREHENSIVE IN HOSPITAL		0.00				
17	AIRFARE FROM HAWAII TO CALIFORNIA FOR EVALUATION		1,605.00				
18	HOTEL IN LOS ANGELES, CALIFORNIA		600.00				
19	CAR RENTAL IN LOS ANGELES		222.72				
20	PARKING AT HOSPITAL AND AIRPORT		0.00				
21	PER DIEM FOR MEALS		240.00				
22	PEDIATRICIAN, THEN ADULT MEDICINE		0.00	0.00	0.00	0.00	0.00
23	DENTIST	4%	87.00	87.00	87.00	87.00	87.00
24	SEDATION FOR DENTAL	4%	30.00	30.00	30.00	30.00	30.00
25	MAJOR PROCEDURES		0.00	0.00	0.00	0.00	0.00
26	NUTRITIONIST	4%	400.00	400.00	200.00	200.00	200.00
27	DEVELOPMENTAL PEDIATRICIAN		0.00	0.00	0.00	0.00	0.00
28	NEUROPSYCHOLOGICAL EVALUATION			0.00	0.00	0.00	0.00
29	SPEECH THERAPY EVALUATION		0.00	0.00	0.00	0.00	0.00

The items of compensation are illustrated annually, but may be paid on a monthly, quarterly, semi-annual, annual or other periodic basis.



ITEMS OF COMPENSATION
ELIJAH MERSBURGH, D.O.B. 02-19-2001
CL. CT. NO. 04-997V

NO.	ITEM	GROWTH RATE	PAID IN CASH				
			2010	2011	2012	2013	2014
30	OCCUPATIONAL THERAPY		0.00	0.00	0.00	0.00	0.00
31	PHYSICAL THERAPY EVALUATION		0.00	0.00	0.00	0.00	0.00
32	ABA THERAPIST (PACIFIC AUTISM CENTER)	4%	141,361.20	141,361.20	141,361.20	141,361.20	141,361.20
33	ABA THERAPIST - TRANSPORTATION/MILEAGE	4%	2,290.75	2,290.75	2,290.75	2,290.75	2,290.75
34	ABA SKILLS TRAINER	4%	3,769.56	3,769.56	3,769.56	3,769.56	3,769.56
35	SAFETY ITEMS FOR HOME	4%	1,500.00	150.00	150.00	150.00	150.00
	MEDICATION						
36	DEPAKOTE SPRINKLE CAPSULES	6%	120.00	120.00	120.00	120.00	120.00
37	KEPPRA LIQUID	6%	120.00	120.00	120.00	120.00	120.00
38	DIASTAT	6%	1,277.17	1,277.17	1,277.17	1,277.17	1,277.17
39	ADDERALL	6%	36.00	36.00	36.00	36.00	36.00
	EQUIPMENT/ SUPPLIES						
40	RENTAL OF PORTABLE OXYGEN UNIT	4%	375.00	125.00	125.00	125.00	125.00
41	PULSE OXIMETER	4%	372.69	74.54	74.54	74.54	74.54
42	HOYER HYDRAULIC LIFT		738.00				
43	HOYER SLINGS		258.96				
44	BED RAILS		200.00				
45	PADDED TUB BENCH	4%	139.00	27.80	27.80	27.80	27.80
46	PREVAIL ALL-NIGHTS, YOUTH	4%	273.48	273.48	273.48		
47	PREVAIL BRIEFS	4%	205.69	205.69	205.69	205.69	205.69
48	DISPOSABLE LATEX GLOVES	4%	43.44	43.44	43.44	43.44	43.44
49	WIPES	4%	31.71	31.71	31.71	31.71	31.71
50	CHUX UNDER PADS	4%	200.57	200.57	200.57	200.57	200.57
51	CLOTH BED PADS	4%	29.85	29.85	29.85	29.85	29.85
52	HAND HELD SHOWER		62.70				
53	SONICARE INTELLICLEAN	4%	119.99	26.66	26.66	26.66	26.66
54	SONICARE REPLACEMENT	4%	25.99	25.99	25.99	25.99	25.99
55	TANDEM BICYCLE		1,275.00				
56	SAFETY HELMET	4%	25.95	8.65	8.65	8.65	
57	COMPUTER LEARNING DESK	4%	250.00	25.00	25.00	25.00	25.00
58	DESK CHAIR	4%	80.80	8.08	8.08	8.08	8.08
59	COMPUTER WITH TOUCH SCREEN	4%	1,299.99	260.00	260.00	260.00	260.00
60	DEVELOPMENTAL SOFTWARE	4%	200.00	100.00	100.00	100.00	100.00

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ITEMS OF COMPENSATION
ELIJAH MERSBURGH, D.O.B. 02-19-2001
CL. CT. NO. 04-997V

NO.	ITEM	GROWTH RATE	PAID IN CASH				
			2010	2011	2012	2013	2014
61	DEVELOPMENTAL TOYS AND ACTIVITIES	4%	500.00	150.00	150.00	150.00	150.00
62	APPLIED BEHAVIOR ANALYSIS SUPPLIES	4%	150.00	150.00	150.00	150.00	150.00
63	WET VEST II	4%	144.95	48.32	48.32	48.32	
64	FLOATATION BELT	4%	11.40	3.80	3.80	3.80	
65	THERAPY MAT		269.95				
66	NISSIN LIGHTWEIGHT FOLD-UP TRANSPORT/WHEELCHAIR	4%	171.80	171.80	171.80	171.80	171.80
67	MAINTENANCE - NISSIN LIGHTWEIGHT FOLD-UP TRANSPORT/WHEELCHAIR	4%	85.90	85.90	85.90	85.90	85.90
68	BACKPACK	4%	34.95	11.65	11.65	11.65	11.65
69	ADD SAFETY FEATURES TO VEHICLE	4%	1,000.00	0.00	0.00	0.00	0.00
70	BRITAX TRAVELER PLUS		539.90				
71	COLUMBIA SMALL ADULT CAR SEAT WITH BUCKLE GUARD AND TETHER KIT	4%		1,306.90	435.63	435.63	435.63
72	CASE MANAGEMENT	4%	3,060.00	3,060.00	3,060.00	3,060.00	3,060.00
73	EDUCATIONAL AND BEHAVIORAL COUNSELING FOR PARENTS		0.00	0.00	0.00	0.00	0.00
74	ATTENDANT CARE - LVN/RN	4%	58,090.44	58,090.44	58,090.44	58,090.44	58,090.44
75	PCA I ATTENDANT	4%	9,245.70	9,245.70	9,245.70	9,245.70	9,245.70
76	RESPIRE - LVN/RN II	4%	25,935.07	25,935.07	25,935.07	25,935.07	25,935.07
77	PCA II ATTENDANT (WEEKENDS)	4%	26,890.04	26,890.04	26,890.04	26,890.04	26,890.04
78	LONG TERM CARE BEGINNING 2020	4%					
79	AIRFARE FOR FAMILY TO RELOCATE						0.00
80	SHIPPING OF PERSONAL ITEMS						0.00
81	SHIPPING OF PERSONAL VEHICLES						0.00

	SUBTOTAL - 1ST YEAR EXPENSES		288,598.31				
82	PAST UNREIMBURSED EXPENSES		481.22				
83	PAIN & SUFFERING		TBD				
84	LOST WAGES		601,330.00				
85	MEDICAID LIEN		32,641.83				
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	TOTALS:		923,051.36	278,857.76	277,786.49	277,513.01	277,452.24

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**ITEMS OF COMPENSATION
ELIJAH MERSBURGH, D.O.B. 02-19-2001
CL. CT. NO. 04-997V**

NO.	ITEM	GROWTH RATE	2015	2016	2017	2018	2019	2020	2021	2022	2023
	INSURANCE										
1	HMSA BLUE CROSS BLUE SHIELD (INCLUDES \$100 DEDUCTIBLE)	6%	2,600.00	2,600.00	2,600.00	2,600.00	2,600.00	2,600.00	2,600.00	2,600.00	2,600.00
2	COBRA - HMSA BLUE CROSS BLUE SHIELD (INCLUDES \$100 DEDUCTIBLE)	6%									
3	MAX OUT OF POCKET	6%									
4	MEDICARE PART B	6%									
5	HUMANA CHOICE PPO, PREMIUM	6%									
6	HUMANA MAX OUT OF POCKET	6%									
7	MEDICARE PART D	6%									
	MEDICAL CARE										
8	NEUROLOGIST		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
9	EEG WITH SEDATION		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
10	3 TESLA MRI BRAIN		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
11	PET SCAN WITH SEDATION		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
12	LAB WORK LFT ELECTROLYTES CBC		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
13	DEPAKOTE LEVEL		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
14	AMBULANCE ER VISITS		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
15	ER VISITS		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
16	INPATIENT COMPREHENSIVE IN HOSPITAL										
17	AIRFARE FROM HAWAII TO CALIFORNIA FOR EVALUATION										
18	HOTEL IN LOS ANGELES, CALIFORNIA										
19	CAR RENTAL IN LOS ANGELES										
20	PARKING AT HOSPITAL AND AIRPORT										
21	PER DIEM FOR MEALS										
22	PEDIATRICIAN, THEN ADULT MEDICINE		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
23	DENTIST	4%	87.00	87.00	87.00	87.00	87.00	87.00	87.00	87.00	87.00
24	SEDATION FOR DENTAL	4%	30.00	30.00	30.00	30.00	30.00	30.00	30.00	30.00	30.00
25	MAJOR PROCEDURES		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
26	NUTRITIONIST	4%	200.00	200.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
27	DEVELOPMENTAL PEDIATRICIAN		0.00	0.00	0.00	0.00	0.00				
28	NEUROPSYCHOLOGICAL EVALUATION		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
29	SPEECH THERAPY EVALUATION		0.00	0.00	0.00	0.00	0.00				

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ELIJAH MERSBURGH, D.O.B. 02-19-2001
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NO.	ITEM	GROWTH RATE	2015	2016	2017	2018	2019	2020	2021	2022	2023
			2015	2016	2017	2018	2019	2020	2021	2022	2023
30	OCCUPATIONAL THERAPY		0.00	0.00	0.00	0.00	0.00				
31	PHYSICAL THERAPY EVALUATION		0.00	0.00	0.00	0.00	0.00				
32	ABA THERAPIST (PACIFIC AUTISM CENTER)	4%	141,361.20	141,361.20	141,361.20	141,361.20	141,361.20				
33	ABA THERAPIST - TRANSPORTATION/MILEAGE	4%	2,290.75	2,290.75	2,290.75	2,290.75	2,290.75				
34	ABA SKILLS TRAINER	4%	3,769.56	3,769.56	3,769.56	3,769.56	3,769.56				
35	SAFETY ITEMS FOR HOME	4%	150.00	150.00	150.00	150.00	150.00				
	MEDICATION										
36	DEPAKOTE SPRINKLE CAPSULES	6%	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00
37	KEPPRA LIQUID	6%	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00
38	DIASTAT	6%	1,277.17	1,277.17	1,277.17	1,277.17	1,277.17	1,277.17	1,277.17	1,277.17	1,277.17
39	ADDERALL	6%	36.00	36.00	36.00	36.00	36.00	36.00	36.00	36.00	36.00
	EQUIPMENT/ SUPPLIES										
40	RENTAL OF PORTABLE OXYGEN UNIT	4%	125.00	125.00	125.00	125.00	125.00	125.00	125.00	125.00	125.00
41	PULSE OXIMETER	4%	74.54	74.54	74.54	74.54	74.54	74.54	74.54	74.54	74.54
42	HOYER HYDRAULIC LIFT										
43	HOYER SLINGS										
44	BED RAILS										
45	PADDED TUB BENCH	4%	27.80	27.80	27.80	27.80	27.80	0.00	0.00	0.00	0.00
46	PREVAIL ALL-NIGHTS, YOUTH	4%									
47	PREVAIL BRIEFS	4%	205.69	205.69	205.69	205.69	205.69	205.69	205.69	205.69	205.69
48	DISPOSABLE LATEX GLOVES	4%	43.44	43.44	43.44	43.44	43.44	43.44	43.44	43.44	43.44
49	WIPES	4%	31.71	31.71	31.71	31.71	31.71	31.71	31.71	31.71	31.71
50	CHUX UNDER PADS	4%	200.57	200.57	200.57	200.57	200.57	200.57	200.57	200.57	200.57
51	CLOTH BED PADS	4%	29.85	29.85	29.85	29.85	29.85	0.00	0.00	0.00	0.00
52	HAND HELD SHOWER										
53	SONICARE INTELLICLEAN	4%	26.66	26.66	26.66	26.66	26.66	26.66	26.66	26.66	26.66
54	SONICARE REPLACEMENT	4%	25.99	25.99	25.99	25.99	25.99	25.99	25.99	25.99	25.99
55	TANDEM BICYCLE										
56	SAFETY HELMET	4%									
57	COMPUTER LEARNING DESK	4%	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00	25.00
58	DESK CHAIR	4%	8.08	8.08	8.08	8.08	8.08	8.08	8.08	8.08	8.08
59	COMPUTER WITH TOUCH SCREEN	4%	260.00	260.00	260.00	260.00	260.00	260.00	260.00	260.00	260.00
60	DEVELOPMENTAL SOFTWARE	4%	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00

The items of compensation are illustrated annually, but may be paid on a monthly, quarterly, semi-annual, annual or other periodic basis.



**ITEMS OF COMPENSATION
ELIJAH MERSBURGH, D.O.B. 02-19-2001
CL. CT. NO. 04-997V**

NO.	ITEM	GROWTH RATE	2015	2016	2017	2018	2019	2020	2021	2022	2023
			2015	2016	2017	2018	2019	2020	2021	2022	2023
61	DEVELOPMENTAL TOYS AND ACTIVITIES	4%	150.00	150.00	150.00	150.00	150.00	150.00	150.00	150.00	150.00
62	APPLIED BEHAVIOR ANALYSIS SUPPLIES	4%	150.00	150.00	150.00	150.00	150.00				
63	WET VEST II	4%									
64	FLOATATION BELT	4%									
65	THERAPY MAT										
66	NISSIN LIGHTWEIGHT FOLD-UP TRANSPORT/WHEELCHAIR	4%	171.80	171.80	171.80	171.80	171.80	171.80	171.80	171.80	171.80
67	MAINTENANCE - NISSIN LIGHTWEIGHT FOLD-UP TRANSPORT/WHEELCHAIR	4%	85.90	85.90	85.90	85.90	85.90	85.90	85.90	85.90	85.90
68	BACKPACK	4%	11.65	11.65	11.65	11.65	11.65	11.65	11.65	11.65	11.65
69	ADD SAFETY FEATURES TO VEHICLE	4%	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
70	BRITAX TRAVELER PLUS										
71	COLUMBIA SMALL ADULT CAR SEAT WITH BUCKLE GUARD AND TETHER KIT	4%	435.63	435.63	435.63	435.63	435.63	435.63	435.63	435.63	435.63
72	CASE MANAGEMENT	4%	3,060.00	3,060.00	3,060.00	3,060.00	3,060.00	0.00	0.00	0.00	0.00
73	EDUCATIONAL AND BEHAVIORAL COUNSELING FOR PARENTS		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
74	ATTENDANT CARE - LVN/RN	4%	58,090.44	58,090.44	58,090.44	58,090.44	58,090.44	0.00	0.00	0.00	0.00
75	PCA I ATTENDANT	4%	9,245.70	9,245.70	9,245.70	9,245.70	9,245.70	0.00	0.00	0.00	0.00
76	RESPIRE - LVN/RN II	4%	25,935.07	25,935.07	25,935.07	25,935.07	25,935.07	0.00	0.00	0.00	0.00
77	PCA II ATTENDANT (WEEKENDS)	4%	26,890.04	26,890.04	26,890.04	26,890.04	26,890.04	0.00	0.00	0.00	0.00
78	LONG TERM CARE BEGINNING 2020	4%						292,000.00	292,000.00	292,000.00	292,000.00
79	AIRFARE FOR FAMILY TO RELOCATE										
80	SHIPPING OF PERSONAL ITEMS										
81	SHIPPING OF PERSONAL VEHICLES										
	SUBTOTAL - 1ST YEAR EXPENSES										
82	PAST UNREIMBURSED EXPENSES										
83	PAIN & SUFFERING										
84	LOST WAGES										
85	MEDICAID LIEN										
	TOTALS:		277,452.24	277,452.24	277,352.24	277,352.24	277,352.24	298,351.83	298,351.83	298,351.83	298,351.83

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**ITEMS OF COMPENSATION
ELIJAH MERSBURGH, D.O.B. 02-19-2001
CL. CT. NO. 04-997V**

NO.	ITEM	GROWTH RATE	2037	2038	2039	2040	2041	2042 LIFE
INSURANCE								
1	HMSA BLUE CROSS BLUE SHIELD (INCLUDES \$100 DEDUCTIBLE)	6%	2,600.00	2,600.00	2,600.00			
2	COBRA - HMSA BLUE CROSS BLUE SHIELD (INCLUDES \$100 DEDUCTIBLE)	6%				7,194.84	7,194.84	
3	MAX OUT OF POCKET	6%				2,600.00	2,600.00	
4	MEDICARE PART B	6%						1,156.80
5	HUMANA CHOICE PPO, PREMIUM	6%						648.00
6	HUMANA MAX OUT OF POCKET	6%						3,000.00
7	MEDICARE PART D	6%						3,556.84
MEDICAL CARE								
8	NEUROLOGIST		0.00	0.00	0.00	0.00	0.00	0.00
9	EEG WITH SEDATION		0.00	0.00	0.00	0.00	0.00	0.00
10	3 TESLA MRI BRAIN		0.00	0.00	0.00	0.00	0.00	0.00
11	PET SCAN WITH SEDATION		0.00	0.00	0.00	0.00	0.00	0.00
12	LAB WORK LFT ELECTROLYTES CBC		0.00	0.00	0.00	0.00	0.00	0.00
13	DEPAKOTE LEVEL		0.00	0.00	0.00	0.00	0.00	0.00
14	AMBULANCE ER VISITS		0.00	0.00	0.00	0.00	0.00	0.00
15	ER VISITS		0.00	0.00	0.00	0.00	0.00	0.00
16	INPATIENT COMPREHENSIVE IN HOSPITAL							
17	AIRFARE FROM HAWAII TO CALIFORNIA FOR EVALUATION							
18	HOTEL IN LOS ANGELES, CALIFORNIA							
19	CAR RENTAL IN LOS ANGELES							
20	PARKING AT HOSPITAL AND AIRPORT							
21	PER DIEM FOR MEALS							
22	PEDIATRICIAN, THEN ADULT MEDICINE		0.00	0.00	0.00	0.00	0.00	0.00
23	DENTIST	4%	87.00	87.00	87.00	87.00	87.00	87.00
24	SEDATION FOR DENTAL	4%	30.00	30.00	30.00	30.00	30.00	30.00
25	MAJOR PROCEDURES		0.00	0.00	0.00	0.00	0.00	0.00
26	NUTRITIONIST	4%	100.00	100.00	100.00	100.00	100.00	100.00
27	DEVELOPMENTAL PEDIATRICIAN							
28	NEUROPSYCHOLOGICAL EVALUATION							
29	SPEECH THERAPY EVALUATION							

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ITEMS OF COMPENSATION
ELIJAH MERSBURGH, D.O.B. 02-19-2001
CL. CT. NO. 04-997V

NO.	ITEM	GROWTH RATE	2024 2037	2038	2039	2040	2041	2042 LIFE
30	OCCUPATIONAL THERAPY							
31	PHYSICAL THERAPY EVALUATION							
32	ABA THERAPIST (PACIFIC AUTISM CENTER)	4%						
33	ABA THERAPIST - TRANSPORTATION/MILEAGE	4%						
34	ABA SKILLS TRAINER	4%						
35	SAFETY ITEMS FOR HOME	4%						
	MEDICATION							
36	DEPAKOTE SPRINKLE CAPSULES	6%	120.00	120.00	120.00	120.00	120.00	0.00
37	KEPPRA LIQUID	6%	120.00	120.00	120.00	120.00	120.00	0.00
38	DIASTAT	6%	1,277.17	1,277.17	1,277.17	1,277.17	1,277.17	0.00
39	ADDERALL	6%	36.00	36.00	36.00	36.00	36.00	0.00
	EQUIPMENT/ SUPPLIES							
40	RENTAL OF PORTABLE OXYGEN UNIT	4%	125.00	125.00	125.00	125.00	125.00	125.00
41	PULSE OXIMETER	4%	74.54	74.54	74.54	74.54	74.54	74.54
42	HOYER HYDRAULIC LIFT							
43	HOYER SLINGS							
44	BED RAILS							
45	PADDED TUB BENCH	4%	0.00	0.00	0.00	0.00	0.00	0.00
46	PREVAIL ALL-NIGHTS, YOUTH	4%						
47	PREVAIL BRIEFS	4%	205.69	205.69	205.69	205.69	205.69	205.69
48	DISPOSABLE LATEX GLOVES	4%	43.44	43.44	43.44	43.44	43.44	43.44
49	WIPES	4%	31.71	31.71	31.71	31.71	31.71	31.71
50	CHUX UNDER PADS	4%	200.57	200.57	200.57	200.57	200.57	200.57
51	CLOTH BED PADS	4%	0.00	0.00	0.00	0.00	0.00	0.00
52	HAND HELD SHOWER							
53	SONICARE INTELLICLEAN	4%	26.66	26.66	26.66	26.66	26.66	26.66
54	SONICARE REPLACEMENT	4%	25.99	25.99	25.99	25.99	25.99	25.99
55	TANDEM BICYCLE							
56	SAFETY HELMET	4%						
57	COMPUTER LEARNING DESK	4%	25.00	25.00	25.00	25.00	25.00	25.00
58	DESK CHAIR	4%	8.08	8.08	8.08	8.08	8.08	8.08
59	COMPUTER WITH TOUCH SCREEN	4%	260.00	260.00	260.00	260.00	260.00	260.00
60	DEVELOPMENTAL SOFTWARE	4%	100.00	100.00	100.00	100.00	100.00	100.00

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**ITEMS OF COMPENSATION
ELIJAH MERSBURGH, D.O.B. 02-19-2001
CL. CT. NO. 04-997V**

NO.	ITEM	GROWTH	2024					2042
		RATE	2037	2038	2039	2040	2041	LIFE
61	DEVELOPMENTAL TOYS AND ACTIVITIES	4%	150.00	150.00	150.00	150.00	150.00	150.00
62	APPLIED BEHAVIOR ANALYSIS SUPPLIES	4%						
63	WET VEST II	4%						
64	FLOATATION BELT	4%						
65	THERAPY MAT							
66	NISSIN LIGHTWEIGHT FOLD-UP TRANSPORT/WHEELCHAIR	4%	171.80	171.80	171.80	171.80	171.80	171.80
67	MAINTENANCE - NISSIN LIGHTWEIGHT FOLD-UP TRANSPORT/WHEELCHAIR	4%	85.90	85.90	85.90	85.90	85.90	85.90
68	BACKPACK	4%	11.65	11.65	11.65	11.65	11.65	11.65
69	ADD SAFETY FEATURES TO VEHICLE	4%	0.00	0.00	0.00	0.00	0.00	0.00
70	BRITAX TRAVELER PLUS							
71	COLUMBIA SMALL ADULT CAR SEAT WITH BUCKLE GUARD AND TETHER KIT	4%	435.63	435.63	435.63	435.63	435.63	435.63
72	CASE MANAGEMENT	4%	0.00	0.00	0.00	0.00	0.00	0.00
73	EDUCATIONAL AND BEHAVIORAL COUNSELING FOR PARENTS		0.00	0.00	0.00	0.00	0.00	0.00
74	ATTENDANT CARE - LVN/RN	4%	0.00	0.00	0.00	0.00	0.00	0.00
75	PCA I ATTENDANT	4%	0.00	0.00	0.00	0.00	0.00	0.00
76	RESPIRE - LVN/RN II	4%	0.00	0.00	0.00	0.00	0.00	0.00
77	PCA II ATTENDANT (WEEKENDS)	4%	0.00	0.00	0.00	0.00	0.00	0.00
78	LONG TERM CARE BEGINNING 2020	4%	292,000.00	292,000.00	292,000.00	292,000.00	292,000.00	292,000.00
79	AIRFARE FOR FAMILY TO RELOCATE							
80	SHIPPING OF PERSONAL ITEMS							
81	SHIPPING OF PERSONAL VEHICLES							
	SUBTOTAL - 1ST YEAR EXPENSES							
82	PAST UNREIMBURSED EXPENSES							
83	PAIN & SUFFERING							
84	LOST WAGES							
85	MEDICAID LIEN							
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	TOTALS:		298,351.83	298,351.83	298,351.83	305,546.67	305,546.67	302,560.30

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