

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 04-1282V

Filed: March 17, 2010

JUSTINE ADAMS, a minor, by her parents and)	
natural guardians,)	
STEPHEN ADAMS and OLIVIA ADAMS,)	
)	NOT TO BE PUBLISHED
Petitioners,)	
)	Proffer; Remand; Damages;
v.)	Prevnar; HepB; HiB
)	
SECRETARY OF)	
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	

Clifford J. Shoemaker, Shoemaker & Associates, Vienna, VA, for Petitioners.

Michael P. Milmo, United States Department of Justice, Washington, D.C., for Respondent.

DECISION¹

LORD, Special Master.

I. Introduction

Petitioners Stephen and Olivia Adams alleged that vaccinee Justine Adams's August 23, 2001 hemophilus B influenza, Hepatitis B, and Prevnar vaccinations were the cause-in-fact of her seizures. In a decision filed on March 22, 2007, the Court found that Petitioners were entitled to compensation. Adams v. Sec'y of Dep't of Health & Human Servs., 76 Fed. Cl. 23 (2007). The parties have worked diligently towards resolving the issue of damages informally. On March 10, 2010, Respondent in the above captioned case filed a Proffer on Award of Compensation memorializing the parties' agreement as to the appropriate amount of compensation in this case.

¹ The 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.

After a complete review of the record, the special master finds that Petitioners are entitled to compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 et seq. (“Vaccine Program” or “Vaccine Act”), as reflected in Respondent’s Proffer on Award of Compensation and the attached chart, Items for Compensation for Justine Adams, attached as Tab A to Respondent’s Proffer on Award for Compensation (hereinafter Tab A: Items of Compensation). The court is convinced, based on its experience and information in the record, that this award will provide reasonable compensation to cover Petitioners’ vaccine-related expenses.

II. Form of Compensation Award

1. Lump Sum:

A lump sum payment of \$1,172,715.63, representing compensation for life care expenses expected to be incurred during the First Year after judgment (\$315,672.67), lost future earnings (\$648,882.28), and pain and suffering (\$208,160.68), in the form of a check payable to Petitioners, as the court-appointed guardian(s)/conservator(s) of the estate of Justine Adams, for the benefit of Justine Adams.

Additionally, Petitioners are awarded a lump sum payment of \$90,568.64, representing compensation for past unreimbursable expenses, payable to Stephen and Olivia Adams, Petitioners, as provided for in Tab A: Items of Compensation.

Finally, Petitioners are awarded a lump sum payment of \$31,282.89, representing compensation for the reimbursement of the State of California Medicaid lien, payable jointly to Petitioners, Stephen and Olivia Adams, and

State of California
Department of Health Care Services
Recovery Section/Personal Injury Unit
1500 Capital Avenue, Bld. 172
MS 4720
Sacramento, CA 95814
Attn: Ms. Teresa Abbes

Petitioners have agreed to endorse this payment to the State of California.

2. Annuity:

Section 15(f)(4) of the Vaccine Act 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 Vaccine Act to order that the compensation awarded under the Vaccine Program be used to purchase an annuity. The court considers it in Justine'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, 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 company² 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 Stephen and Olivia Adams, as guardians/conservators of Justine's estate, or to the successor guardian/conservator of Justine's estate, for the benefit of Justine, only so long as Justine is alive at the time a particular payment is due.

At the Secretary's sole discretion, the periodic payments may be provided to Petitioners in monthly, quarterly, annual or other installments. The "annual amounts" set forth in the attached chart, Tab A: Items of Compensation, 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.

A four percent (4%) growth rate should be applied to all non-medical life care items, and a five percent (5%) growth rate should be applied to all medical life care items, as reflected in the attached chart, Tab A: Items of Compensation.

² The 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.

3. **Guardianship:**

As agreed to by the parties, no payments shall be made until Petitioners provide Respondent with documentation establishing that they have been appointed as the guardians/conservators of Justine's estate.

III. Conclusion

Petitioners, Stephen and Olivia Adams, parents and natural guardians of Justine, are entitled to an award under the Vaccine Program to provide for compensable expenses. Petitioners' award of compensation shall be in the following form:

- 1) A lump sum payment of \$1,172,715.63, representing life care expenses for Year One (\$315,672.67), lost future earnings (\$648,882.28), pain and suffering (\$208,160.68), and, in the form of a check payable to Stephen and Olivia Adams, as guardians/conservators of Justine's estate, for the benefit of Justine, as provided herein.
- 2) Petitioners are awarded a lump sum payment of \$90,568.64, representing compensation for past unreimbursable expenses payable to Stephen and Olivia Adams, Petitioners.
- 3) Petitioners are also awarded a lump sum payment of \$31,282.89, representing reimbursement for a Medicaid Lien, payable to Stephen and Olivia Adams, and the State of California, as provided herein.
- 4) Additionally, Petitioners will receive an award in an amount sufficient 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 Justine, as reflected by the attached chart, Tab A: Items of Compensation, which annuity shall be purchased as soon as practicable after entry of judgment.

Based on the foregoing, this Court adopts the parties' Proffer and finds that Petitioners are 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.³

IT IS SO ORDERED.

s/ Dee Lord
Dee Lord
Special Master

³ 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.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

JUSTINE ADAMS, a minor, by her parents)	
and natural guardians, STEPHEN and)	
OLIVIA ADAMS,)	
)	
Petitioners,)	
)	
v.)	No. 04-1282V
)	Special Master Lord
SECRETARY OF)	
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	

RESPONDENT'S PROFFER ON AWARD OF COMPENSATION

I. Items of Compensation

A. Life Care Items

The parties jointly engaged life care planners, Laura Fox, MSN, RN, CLCP and Liz Holakiewicz, BSN, RN, CNLCP, to provide an estimation of Justine Adams's future vaccine injury-related needs. All items of compensation identified in the joint life care plan are supported by the evidence and are illustrated by the chart entitled Appendix A: Items of Compensation for Justine Adams, attached hereto as Tab A.¹ Respondent proffers that Justine Adams should be awarded all items of compensation set forth in the joint life care plan and illustrated by the chart attached at Tab A. Petitioners agree.

¹ The chart at Tab A illustrates the annual benefits provided by the life care plan. The annual benefit years run from the date of judgment up to the first anniversary of the date of judgment, and every year thereafter up to the anniversary of the date of judgment.

B. Lost Future Earnings

The parties agree that based upon the evidence of record, Justine Adams will never be gainfully employed. Therefore, respondent proffers that Justine Adams should be awarded full lost future earnings as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(3)(B). Respondent proffers that the appropriate award for Justine Adams's lost future earnings is \$648,882.28. Petitioners agree.

C. Pain and Suffering

Respondent proffers that Justine Adams should be awarded \$208,160.68 in actual and projected pain and suffering. This amount reflects that the award for projected pain and suffering has been reduced to net present value. See 42 U.S.C. § 300aa-15(a)(4). Petitioners agree.

D. Past Unreimbursable Expenses

Evidence supplied by petitioners documents their expenditure of past unreimbursable expenses related to Justine Adams's vaccine-related injury. Respondent proffers that petitioners should be awarded past unreimbursable expenses in the amount of \$90,568.64. Petitioners agree.

E. Medicaid Lien

Respondent proffers that Justine Adams is entitled to reimbursement for a State of California Medicaid lien filed against her in the amount of \$31,282.89. Petitioners agree.

II. Form of the Award

The parties recommend that the compensation provided to Justine Adams should be made through a combination of lump sum payments and future annuity payments as described below, and request that the special master's decision and the Court's judgment award the following:

A. A lump sum payment of \$1,172,715.63, representing compensation for life care expenses expected to be incurred during the first year after judgment (\$315,672.67), lost future earnings (\$648,882.28) and pain and suffering (\$208,160.68), in the form of a check payable to petitioners, as the court-appointed guardian(s)/conservator(s) of the estate of Justine Adams, for the benefit of Justine Adams.

B. A lump sum payment of \$90,568.64, representing compensation for past unreimbursable expenses, payable to Stephen and Olivia Adams, petitioners;

C. A lump sum payment of \$31,282.89, representing compensation for the reimbursement of the State of California Medicaid lien, payable jointly to petitioners, Stephen and Olivia Adams, and

State of California
Department of Health Care Services
Recovery Section/Personal Injury Unit
1500 Capital Avenue, Bld. 172
MS 4720
Sacramento, CA 95814
Attn: Ms. Teresa Abbes

Petitioners agree to endorse this payment to the State of California.

D. An amount sufficient to purchase an annuity contract, 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 chart at Tab A attached hereto, paid to the life insurance company² from

² The 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 rating organizations:

- a. A.M. Best Company: A++, A+, A+g, A+p, A+r, or A+s;
- b. Moody's Investor Service Claims Paying Rating: Aa3, Aa2, Aa1, or Aaa;

(continued...)

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 to petitioners only so long as Justine Adams is alive at the time a particular payment is due. At the Secretary's sole discretion, the periodic payments may be provided to petitioners in monthly, quarterly, annual or other installments. The "annual amounts" set forth in the chart at Tab A describe only the total yearly sum to be paid to petitioners and do not require that the payment be made in one annual installment.

1. Growth Rate

Respondent proffers that a four percent (4%) growth rate should be applied to all non-medical life care items, and a five percent (5%) growth rate should be applied to all medical life care items. Thus, the benefits illustrated in the chart at Tab A that are to be paid through annuity payments should grow as follows: four percent (4%) compounded annually from the date of judgment for non-medical items, and five percent (5%) compounded annually from the date of judgment for medical items. Petitioners agree.

2. Life-contingent annuity

Petitioners will continue to receive the annuity payments from the Life Insurance Company only so long as Justine Adams is alive at the time that a particular payment is due.

²(...continued)

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.

Petitioners shall provide written notice to the Secretary of Health and Human Services and the Life Insurance Company within twenty (20) days of Justine's death.

3. Guardianship

No payments under section II. A. shall be made until petitioners provide the Secretary with documentation establishing their appointment as guardian(s)/conservator(s) of Justine Adams's estate. If petitioners are not authorized by a court of competent jurisdiction to serve as guardian(s)/conservator(s) of the estate of Justine Adams at the time a payment is to be made, any such payment shall be paid to the party or parties appointed by a court of competent jurisdiction to serve as guardian(s)/conservator(s) of the estate of Justine Adams upon submission of written documentation of such appointment to the Secretary.

III. Summary of Recommended Payments Following Judgment

- | | | |
|----|--|-----------------------|
| A. | Lump Sum paid to petitioners, as guardian(s)/conservator(s) of the estate of Justine Adams, for Year One life care expenses, lost future earnings, and pain and suffering: | \$1,172,715.63 |
| B. | A lump sum paid to petitioners: | \$ 90,568.64 |
| C. | Reimbursement of the Medicaid lien: | \$ 31,282.89 |
| D. | An amount sufficient to purchase the annuity contract described above in section II. D. | |

Appendix A: Items of Compensation for Justine Adams

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Appendix A: Items of Compensation for Justine Adams

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ITEMS OF COMPENSATION	G.R.	*	M	Lump Sum Compensation Year 1	Compensation Year 2	Compensation Year 3	Compensation Year 4	Compensation Year 5	Compensation Year 6	Compensation Year 7	Compensation Year 8
				2010	2011	2012	2013	2014	2015	2016	2017
Diazepam 2 mgs5	5%	*		89.40	89.40	89.40	89.40	89.40	89.40	89.40	89.40
LMX Topical Cream	5%	*		10.80	10.80	10.80	10.80	10.80	10.80	10.80	10.80
Diastat	5%	*		300.00	300.00	300.00	300.00	300.00	300.00	300.00	300.00
Folic Acid	5%	*		40.68	40.68	40.68	40.68	40.68	40.68	40.68	40.68
Cod Liver Oil	4%			96.28	96.28	96.28	96.28	96.28	96.28	96.28	96.28
Melatonin	4%			9.42	9.42	9.42	9.42	9.42	9.42	9.42	9.42
CMP	5%	*									
Felbatol Drug Levels	5%	*									
Ethosuximide Levels	5%	*									
Phenobarbital Levels	5%	*									
CBC	5%	*									
LFT	5%	*									
EEG	5%	*									
MRI	5%	*									
Chest X-ray, KUB	5%	*									
Nursing	4%		M	293,236.00	293,236.00	293,236.00	297,976.00	297,976.00	297,976.00	297,976.00	
Attendant Care	4%		M								166,080.00
ICF/DDN Residential Care	4%		M								
Oxygen Tank & Regulator	4%	*									
Ambu Bags & Masks	4%			60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00
Suction Machine	4%	*									
Canister	4%	*									
Tubing for Suction Machine	4%	*									
Yankauer	4%	*									
Medic Alert	4%			19.95		19.95		19.95		19.95	
Diapers, Wipes, Skin Care Supplies	4%		M	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00
Medication Syringes	4%			197.10	197.10	197.10	197.10	197.10	197.10	197.10	
Computer Software	4%			500.00	500.00	500.00					
Kaye Walker	4%	*									
Walker	4%	*									
Wheelchair or Stroller	4%	*		600.00					600.00		
Lost Future Earnings				648,882.28							

Appendix A: Items of Compensation for Justine Adams

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ITEMS OF COMPENSATION	G.R.	*	M	Lump Sum Compensation Year 1	Compensation Year 2	Compensation Year 3	Compensation Year 4	Compensation Year 5	Compensation Year 6	Compensation Year 7	Compensation Year 8
				2010	2011	2012	2013	2014	2015	2016	2017
Pain and Suffering				208,160.68							
Past Unreimbursable Expenses				90,568.64							
Medicaid Reimbursement				31,282.89							
Annual Totals				1,294,567.16	313,173.72	313,497.67	316,728.72	312,502.67	312,778.72	312,552.67	176,629.62

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 the court-appointed guardian(s)/custodian(s) of Justine Adams, for the benefit of Justine Adams, for lost future earnings (\$648,882.28), pain and suffering (\$208,160.68), and Yr 1 life care expenses (\$315,672.67): \$1,172,715.63.

As soon as practicable after entry of judgment, respondent shall make the following payment to petitioners, Stephen and Olivia Adams, for past un-reimbursable expenses: \$90,568.64.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioners and the State of California, as reimbursement for the state's Medicaid lien: \$31,282.89.

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

Annual amounts shall increase at the rates indicated in column "G.R." above, compounded annually from the date of judgment.

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

Items denoted with an "M" payable in 12 monthly installments totaling the annual amount indicated.

** MRMIP offsets for "Hosp. for Dental Care" and "Diastat" adjusted in years when \$75,000 annual policy limit exceeded. \$750,000 MRMIP lifetime policy limit reached during Compensation Yr 2034.

No insurance offsets have been applied in Compensation Yrs 2034 and 2035.

Appendix A: Items of Compensation for Justine Adams

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Appendix A: Items of Compensation for Justine Adams

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ITEMS OF COMPENSATION	G.R.	*	M	Compensation Year 9	Compensation Year 10	Compensation Year 11	Compensation Year 12	Compensation Year 13	Compensation Year 14	Compensation Year 15	Compensation Year 16
				2018	2019	2020	2021	2022	2023	2024	2025
Pain and Suffering											
Past Unreimbursable Expenses											
Medicaid Reimbursement											
Annual Totals				176,533.57	176,234.62	176,588.62	176,234.62	176,538.62	176,234.62	184,118.10	175,950.50

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 the court-appointed guardian(s)/custodian(s) of Justine Adams, for the benefit of Justine Adams, for lost future earnings (\$648,882.28), pain and suffering (\$208,160.68), and Yr 1 life care expenses (\$315,672.67): \$1,172,715.63.

As soon as practicable after entry of judgment, respondent shall make the following payment to petitioners, Stephen and Olivia Adams, for past un-reimbursable expenses: \$90,568.64.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioners and the State of California, as reimbursement for the state's Medicaid lien: \$31,282.89.

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

Annual amounts shall increase at the rates indicated in column "G.R." above, compounded annually from the date of judgment.

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

Items denoted with an "M" payable in 12 monthly installments totaling the annual amount indicated.

** MRMIP offsets for "Hosp. for Dental Care" and "Diastat" adjusted in years when \$75,000 annual policy limit exceeded.

\$750,000 MRMIP lifetime policy limit reached during Compensation Yr 2034.

No insurance offsets have been applied in Compensation Yrs 2034 and 2035.

Appendix A: Items of Compensation for Justine Adams

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Appendix A: Items of Compensation for Justine Adams

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ITEMS OF COMPENSATION	G.R.	*	M	Compensation Year 17	Compensation Year 18	Compensation Year 19	Compensation Year 20	Compensation Year 21	Compensation Year 22	Compensation Year 23	Compensation Year 24
				2026	2027	2028	2029	2030	2031	2032	2033
Pain and Suffering											
Past Unreimbursable Expenses											
Medicaid Reimbursement											
Annual Totals				176,322.69	86,583.95	90,962.42	86,585.95	94,404.31	90,093.48	96,643.76	91,932.39

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 the court-appointed guardian(s)/custodian(s) of Justine Adams, for the benefit of Justine Adams, for lost future earnings (\$648,882.28), pain and suffering (\$208,160.68), and Yr 1 life care expenses (\$315,672.67): \$1,172,715.63.

As soon as practicable after entry of judgment, respondent shall make the following payment to petitioners, Stephen and Olivia Adams, for past un-reimbursable expenses: \$90,568.64.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioners and the State of California, as reimbursement for the state's Medicaid lien: \$31,282.89.

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

Annual amounts shall increase at the rates indicated in column "G.R." above, compounded annually from the date of judgment.

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

Items denoted with an "M" payable in 12 monthly installments totaling the annual amount indicated.

** MRMIP offsets for "Hosp. for Dental Care" and "Diastat" adjusted in years when \$75,000 annual policy limit exceeded.

\$750,000 MRMIP lifetime policy limit reached during Compensation Yr 2034.

No insurance offsets have been applied in Compensation Yrs 2034 and 2035.

Appendix A: Items of Compensation for Justine Adams

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ITEMS OF COMPENSATION	G.R.	*	M	Compensation Year 25	Compensation Year 26	Compensation Years 27-56	Compensation Years 57-Life
				2034	2035	2036-2065	2066-Life
Insurance MOP	5%						
MRMIP MOP	5%						
MRMIP Premiums	5%						
Medicare Part B Premiums	5%					1,326.00	1,326.00
Medigap C	5%					3,084.00	1,572.00
Medicare D	5%					11,903.00	11,903.00
Pediatrician	5%	*					
Physiatrist	5%	*		98.25	98.25		
Internal Medicine	5%	*		98.00	98.00		
Neurologist	5%	*		500.00	500.00		
Clinic Fee for Neurologist	5%	*					
VNS Analysis	5%	*		512.00	512.00		
Dentist	5%			304.00	152.00	152.00	152.00
Dental Sedation or Anesthesia	5%	*		1,275.00			
Hospitalization for Dental Care	5%	*		5,000.00			
Neuro-surgeon	5%	*					
Clinic Fee for Neuro-surgeon	5%	*					
ER	5%	*		2,550.00	2,550.00		
Hospital Care	5%	*					
Case Mngt	4%		M	525.00	525.00	525.00	525.00
Neuro-psychologist	5%						
Neuro-psych Exams	5%	*					
Play Therapy	4%						
Advocacy Services	4%						
PT	4%	*	M				
PT Eval	4%						
OT	4%	*	M	210.00	210.00		
ST	4%	*	M	768.00	768.00		
Phenobarbital	5%	*		43.80	43.80		
Ethosuximide	5%	*		242.88	242.88		
Felbatol	5%	*		4,496.76	4,496.76		
Diazepam 2 mgs	5%	*		259.20	259.20		

Appendix A: Items of Compensation for Justine Adams

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ITEMS OF COMPENSATION	G.R.	*	M	Compensation Year 25	Compensation Year 26	Compensation Years 27-56	Compensation Years 57-Life
				2034	2035	2036-2065	2066-Life
Diazepam 2 mgs5	5%	*		230.40	230.40		
LMX Topical Cream	5%	*		111.80	111.80		
Diastat	5%	*		7,863.60	7,863.60		
Folic Acid	5%	*		51.10	51.10	51.10	51.10
Cod Liver Oil	4%			96.28	96.28	96.28	96.28
Melatonin	4%			9.42	9.42	9.42	9.42
CMP	5%	*		274.24	274.24		
Felbatol Drug Levels	5%	*		253.12	253.12		
Ethosuximide Levels	5%	*		253.76	253.76		
Phenobarbital Levels	5%	*		659.60	659.60		
CBC	5%	*		1,475.50	1,475.50		
LFT	5%	*		6,416.28	6,416.28		
EEG	5%	*		1,148.70			
MRI	5%	*					
Chest X-ray, KUB	5%	*			398.80		
Nursing	4%		M				
Attendant Care	4%		M				
ICF/DDN Residential Care	4%		M	77,208.45	77,208.45	77,208.45	77,208.45
Oxygen Tank & Regulator	4%	*		432.00	432.00		
Ambu Bags & Masks	4%			60.00	60.00	60.00	60.00
Suction Machine	4%	*			220.00		
Canister	4%	*		168.00	168.00		
Tubing for Suction Machine	4%	*		15.48	15.48		
Yankauer	4%	*		11.88	11.80		
Medic Alert	4%			2.00	2.00	2.00	2.00
Diapers, Wipes, Skin Care Supplies	4%		M	1,500.00	1,500.00	1,500.00	1,500.00
Medication Syringes	4%						
Computer Software	4%						
Kaye Walker	4%	*					
Walker	4%	*			232.95		
Wheelchair or Stroller	4%	*			600.00		
Lost Future Earnings							

Appendix A: Items of Compensation for Justine Adams

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ITEMS OF COMPENSATION	G.R.	*	M	Compensation Year 25	Compensation Year 26	Compensation Years 27-56	Compensation Years 57-Life
				2034	2035	2036-2065	2066-Life
Pain and Suffering							
Past Unreimbursable Expenses							
Medicaid Reimbursement							
Annual Totals				115,124.50	109,000.47	95,917.25	94,405.25

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 the court-appointed guardian(s)/custodian(s) of Justine Adams, for the benefit of Justine Adams, for lost future earnings (\$648,882.28), pain and suffering (\$208,160.68), and Yr 1 life care expenses (\$315,672.67): \$1,172,715.63.

As soon as practicable after entry of judgment, respondent shall make the following payment to petitioners, Stephen and Olivia Adams, for past un-reimbursable expenses: \$90,568.64.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioners and the State of California, as reimbursement for the state's Medicaid lien: \$31,282.89.

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

Annual amounts shall increase at the rates indicated in column "G.R." above, compounded annually from the date of judgment.

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

Items denoted with an "M" payable in 12 monthly installments totaling the annual amount indicated.

** MRMIP offsets for "Hosp. for Dental Care" and "Diastat" adjusted in years when \$75,000 annual policy limit exceeded.

\$750,000 MRMIP lifetime policy limit reached during Compensation Yr 2034.

No insurance offsets have been applied in Compensation Yrs 2034 and 2035.