

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 99-432 V

Filed: May 10, 2011

Not for Publication

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JACINDA FISHER,

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Petitioner,

\*

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Damages Decision based on Proffer

v.

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SECRETARY OF THE DEPARTMENT  
OF HEALTH AND HUMAN SERVICES,

\*

\*

\*

Respondent.

\*

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Clifford J. Shoemaker, Vienna, VA, for petitioner.

Chrysovalantis P. Kefalas, Washington, DC, for respondent.

**MILLMAN, Special Master**

### **DECISION AWARDING DAMAGES<sup>1</sup>**

On May 6, 2011, respondent filed a Proffer on Award of Compensation. On that same day petitioner orally accepted respondent's Proffer. Based on the record as a whole, the special master finds that petitioner is entitled to the award as stated in the Proffer. Pursuant to the terms stated in the attached Proffer, the court awards petitioner:

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<sup>1</sup> Because this decision contains a reasoned explanation for the special master's action in this case, the special master 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). Vaccine Rule 18(b) states that all decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would constitute a clearly unwarranted invasion of privacy. When such a decision is filed, petitioner has 14 days to identify and move to delete such information prior to the document's disclosure. If the special master, upon review, agrees that the identified material fits within the banned categories listed above, the special master shall delete such material from public access.

- a. a lump sum payment of **\$769,531.08**, representing compensation for life care expenses expected to be incurred during the first year after judgment (\$91,389.61), lost earnings (\$413,854.75), pain and suffering (\$220,576.28), and past unreimbursable expenses (\$43,710.44). The award should be in the form of a check payable to petitioner.
- b. An amount sufficient to purchase an annuity contract, subject to the conditions described in the proffer, that will provide payments for the life care items contained in the life care plan.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment herewith.<sup>2</sup>

**IT IS SO ORDERED.**

Dated: May 10, 2011

s/ Laura D. Millman  
Laura D. Millman  
Special Master

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<sup>2</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party's filing a notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS**  
**OFFICE OF SPECIAL MASTERS**

JACINDA S. FISHER,	)	
	)	
Petitioner,	)	No. 99-432V
v.	)	Special Master Millman
	)	
SECRETARY OF HEALTH	)	
AND HUMAN SERVICES,	)	
	)	
Respondent.	)	
	)	

**RESPONDENT’S PROFFER ON AWARD OF COMPENSATION**

**I. Items of Compensation**

A. Life Care Items

The respondent engaged life care planner Laura Fox, MSN, RN, CLCP, to provide an estimation of Jacinda S. Fisher’s future vaccine-injury related needs. For the purposes of this proffer, the term “vaccine related” is as described in the special master’s decision dated July 13, 2009. All items of compensation identified in the life care plan, filed concurrently as Respondent’s Exhibit L, are supported by the evidence, and are illustrated by the chart entitled Appendix A: Items of Compensation for Jacinda S. Fisher, attached hereto as Tab A.<sup>1</sup> Respondent proffers that Jacinda S. Fisher should be awarded all items of compensation set forth in the life care plan and illustrated by the chart attached at Tab A. Petitioner agrees.

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<sup>1</sup> 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, Jacinda S. Fisher has suffered a past loss of earnings and likely will not be employed on a full-time basis in the future.

Therefore, respondent proffers that Jacinda S. Fisher should be awarded lost earnings as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(3)(A). Respondent proffers that the appropriate award for Jacinda S. Fisher's lost earnings is \$413,854.75. Petitioner agrees.

C. Pain and Suffering

Respondent proffers that Jacinda S. Fisher should be awarded \$220,576.28 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). Petitioner agrees.

D. Past Unreimbursable Expenses

Evidence supplied by petitioner documents Jacinda S. Fisher's expenditure of past unreimbursable expenses related to her vaccine-related injury. Respondent proffers that petitioner should be awarded past unreimbursable expenses in the amount of \$43,710.44. Petitioner agrees.

E. Medicaid Lien

Petitioner represents that there are no outstanding Medicaid liens against her.

**II. Form of the Award**

The parties recommend that the compensation provided to Jacinda S. Fisher 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 \$769,531.08, representing compensation for life care expenses expected to be incurred during the first year after judgment (\$91,389.61), lost earnings (\$413,854.75), pain and suffering (\$220,576.28), and past unreimbursable expenses (\$43,710.44), in the form of a check payable to petitioner, Jacinda S. Fisher.

B. An amount sufficient to purchase an annuity contract,<sup>2</sup> 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 company<sup>3</sup> from which the annuity will be purchased.<sup>4</sup> 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 petitioner,

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<sup>2</sup> In respondent's discretion, respondent may purchase one or more annuity contracts from one or more life insurance companies.

<sup>3</sup> 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;
- 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.

<sup>4</sup> Petitioner authorizes the disclosure of certain documents filed by the petitioner in this case consistent with the Privacy Act and the routine uses described in the National Vaccine Injury Compensation Program System of Records, No. 09-15-0056.

Jacinda S. Fisher, only so long as Jacinda S. Fisher 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" set forth in the chart at Tab A describe only the total yearly sum to be paid to petitioner 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. Petitioner agrees.

2. Life-contingent annuity

Petitioner will continue to receive the annuity payments from the Life Insurance Company only so long as she, Jacinda S. Fisher, is alive at the time that a particular payment is due. Written notice shall be provided to the Secretary of Health and Human Services and the Life Insurance Company within twenty (20) days of Jacinda S. Fisher's death.

3. Guardianship

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

**III. Summary of Recommended Payments Following Judgment**

- A. Lump Sum paid to petitioner, Jacinda S. Fisher: **\$ 769,531.08**
- B. An amount sufficient to purchase the annuity contract described above in section II. B.

Respectfully submitted,

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Assistant Attorney General

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Torts Branch, Civil Division

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Dated: May 6, 2011

Jacinda Fisher  
DOB: 11/09/1957

LIFE CARE PLAN  
prepared by Laura E. Fox, MSN, RN, CLCP

Resp. Ex. L  
Date Prepared 3/14/2011  
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Needs	Ages	Petitioner's Annual Cost	Times / Year	Petitioner's Cost with Offsets	Rationale	Respondent's Annual Cost	Respondent's Cost with Offsets
Plan Updated 10/2010 (see Ex. 65)					May need opportunity to consult with providers to determine Ms. Fisher's current and future care needs. Please see letter of 7/5/10.		
Health Insurance (added by respondent)					Ms. Fisher is no longer employed and coverage ended 12/16/10. COBRA ended 2/24/11 and the Fishers did not apply as of 2/2/11. If they do not apply, they are not entitled to HIPAA (which would waive the pre-existing insurance clause) as they did not have continuous insurance coverage for 63 days. Ms. Fisher states she was denied SS Disability (per Ex. 41) and is working part time.		
Health Insurance Premiums (added by respondent)	Age 53	\$460.00	12		Lumenos Standard Anthem Blue Cross Blue Shield is available in Virginia for Ms. Fisher. This is an indemnity plan that has a 1 year exclusion for pre-existing conditions, that is waived for HIPAA eligible individuals. As Ms. Fisher did not take COBRA-she is not HIPPA eligible. Ms. Fisher is in Area 3 for premiums.	\$5,520.00	\$5,520.00
Health Insurance Premiums (added by respondent)	Age 54	\$470.00	12		Single policy with \$3000 plan deductible and maximum out of pocket \$5000 including deductible.	\$5,640.00	\$5,640.00
Health Insurance Premiums (added by respondent)	Age 55	\$481.00	12			\$5,772.00	\$5,772.00
Health Insurance Premiums (added by respondent)	Age 56	\$495.00	12			\$5,940.00	\$5,940.00
Health Insurance Premiums (added by respondent)	Age 57	\$509.00	12			\$6,108.00	\$6,108.00

Jacinda Fisher  
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Needs	Ages	Petitioner's Annual Cost	Times / Year	Petitioner's Cost with Offsets	Rationale	Respondent's Annual Cost	Respondent's Cost with Offsets
Health Insurance Premiums (added by respondent)	Age 58	\$522.00	12			\$6,264.00	\$6,264.00
Health Insurance Premiums (added by respondent)	Age 59	\$536.00	12			\$6,432.00	\$6,432.00
Health Insurance Premiums (added by respondent)	Age 60	\$556.00	12			\$6,672.00	\$6,672.00
Health Insurance Premiums (added by respondent)	Age 61	\$575.00	12			\$6,900.00	\$6,900.00
Health Insurance Premiums (added by respondent)	Age 62	\$590.00	12			\$7,080.00	\$7,080.00
Health Insurance Premiums (added by respondent)	Age 63	\$606.00	12			\$7,272.00	\$7,272.00
Health Insurance Premiums (added by respondent)	Age 64	\$621.00	12		Plan is only offered to Virginia residents covered in Anthem Blue Cross and Blue Shield area and not entitled to Medicare.	\$7,452.00	\$7,452.00
Health Insurance Deductible (added by respondent)	Through age 64	\$3,000.00	1		Plan has a \$3000 annual deductible.	\$3,000.00	\$3000 starting after year one (first year exclusion for pre-existing)
Health Insurance Maximum Out of Pocket (added by respondent)	Through age 64	\$2,000.00	1	\$2,000.00	Maximum out of pocket per calendar year is \$5000 (includes \$3000 deductible) and there is 100% coverage including medications.	\$2,000.00	\$2000 starting after year one (first year exclusion for pre-existing)

Jacinda Fisher  
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Needs	Ages	Petitioner's Annual Cost	Times / Year	Petitioner's Cost with Offsets	Rationale	Respondent's Annual Cost	Respondent's Cost with Offsets
Medicare Part A	Age 65 to life	\$3,834.00	1	\$3,834.00	Ms. Fisher would have paid for Medicare premiums at age 65 regardless of a vaccine injury. In addition, these are not the current premiums.	\$0.00	\$0.00
Medicare Part C	Age 65 to life	\$4,445.00	1	\$4,445.00	States includes Medicare Part D prescriptions drugs. There is no information provided on the program or the services, only the cost. This information was requested in letter of 7/5/10.	\$0 as need more information	\$0.00
Medicare Part C or D	Age 65 to life	\$4,186.00	1	\$4,186.00	See above.	\$0 as unclear request	\$0.00
Medicare Deductible	Age 65 to life	\$2,000.00	1	\$2,000.00	Current Medicare deductible is \$162 for 2011, which Ms. Fisher would pay regardless of vaccine injury. Unclear request.	\$0 as unclear request	\$0.00
Medicare Part D	Age 65 to life	States included in above	1	States included in above	Cost of medications provided below.	\$0.00	\$0.00
Medicare/Medigap Maximum Out Of Pocket	Now	\$4,620.00	1	\$4,620.00	Unclear why Medicare and Medigap Maximum is requested in 2010 if have insurance.	\$0 as unclear request	\$0.00
Medigap Policy (added by respondent)	Age 65 to life				Anthem Blue Cross Blue Shield Policy in Virginia for Ms. Fisher. Traditional Plan F provided at current cost of \$108 per month. It includes the Medicare annual deductible.	\$1,296.00	\$1,296.00
1. Medical Care					Some costs obtained from contacting physicians office directly on 2/11, as they were not provided.	1st year expenses less than \$1500 per calendar year	First year does not cover pre-existing. There is a \$3000 annual deductible

Jacinda Fisher  
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Needs	Ages	Petitioner's Annual Cost	Times / Year	Petitioner's Cost with Offsets	Rationale	Respondent's Annual Cost	Respondent's Cost with Offsets
Neurologist	Life	\$30.00	2	\$60.00	Recommended by Dr. Puzio in recent Exhibit 63 submitted 8/10. Current copay provided in bill was \$30 for 8/18/10 per Ex. 64. Cost from provider averages \$55 to \$90 for self pay-average \$72.50.	\$145.00	\$145 year one then \$0 with insurance and Medicare and Medicare Supplemental
Internal Medicine	Life	\$15.00	4	\$60.00	Recommended by Dr. Puzio in recent Exhibit 63 submitted 8/10. Ms. Fisher would typically see her physician on an annual basis as this is recommended for all adults and she also has pre-existing issues including numbness, pain, hypertension, diabetes, osteoporosis, obesity, etc. For 3 visits per year with average charge from provider at \$112 per visit.	\$336.00	\$336 year one then \$0 with insurance and Medicare
Laboratory Work	Life	\$200.00	3-4 times	\$600 to \$800 (average \$700)	Unclear request. Need current policy for offsets. Ms. Fisher will require blood work for diabetes, obesity, etc., not related to the vaccine. This may be covered in full by her policy.	\$400.00	\$400 for year one then \$0 with insurance and Medicare
MRI of brain without contrast	Life	\$950.00	Every other years	\$475.00	Per Ex. 50-Ms. Fisher received an MRI of brain and spinal cord on 10/1/09 for billing of \$5392 with out of pocket of \$951.66.	\$5392 per billing records for MRI of brain and spinal cord	\$5392 year one then \$0 every other year with insurance and Medicare
Hospitalization	Age 59 to life	\$13,911.00	3-5 days every 3 years	\$3477.75-corrected to every 4 years based on math	Unclear request and would be covered by insurance and or Medicare. Dr. Puzio did not recommend hospitalizations and Ms. Fisher did not recall most recent hospitalization since injury at site visit. Assume hospitalization of \$7000 for 3-5 days every 3 years starting age 59 to life	\$7000 per hospitalization and hospitalized every 3 years age 59 to life	\$0 as covered by insurance and Medicare starting age 59

Jacinda Fisher  
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Needs	Ages	Petitioner's Annual Cost	Times / Year	Petitioner's Cost with Offsets	Rationale	Respondent's Annual Cost	Respondent's Cost with Offsets
2. RX							Costs are from drugstore.com
Baclofen	Life	\$4.83	12	\$57.96	Ms. Fisher says she uses baclofen 10 mgs as needed for muscle spasms and does not take it frequently. Per Ex. 42 (current to 2009) there is only one refill of Baclofen -60 Baclofen 10 mg on 7/31/09 with copay of \$4.83. Cost from drugstore.com is \$27.98	Need pharmacy print out as requested at site visit	\$27.98 year one then \$0 through age 64 then \$27.98 per year to life
B-12 shots	Life	\$10.98	12	\$131.76	Ms. Fisher states she receives B-12 shots monthly administered by her husband. Per Ex. 60, Dr. Hagger, PCP, on 8/3/09 notes that Ms. Fisher has a history of a B12 deficiency. States only medication taking is oxycodone.	\$0.00	\$0.00
Oxycodone	Life	\$10.00	12	\$120.00	Ms. Fisher uses oxycodone 5 mgs nightly for pain. This is a generic medication. Cost from drugstore.com is \$34.14 for 30.	\$60.00	\$409.68 year one then \$0 through age 64 then \$409.68 age 65 to life
Solu-medrol IV	Life			\$21.18	Ms. Fisher is not on this medication and does not tolerate steroids well according to Ex. 66 of 1/11/11. She recently was placed on a Medrol Dosepak. Dr. Puzio notes she may need this in the future, but it is unclear when and if it is more likely than not.	\$0.00	\$0.00
Oral Prednisone-after Solu-medrol	Life	\$11.98	2	\$143.52	Ms. Fisher is not on this medication and does not tolerate steroids well, according to Ex. 66 of 1/11/11.	\$0.00	\$0.00
Tylenol/Avonex injections	Age 57 to 64	\$3,800.00	12	\$45,600.00	New request and not discussed at site visit. Ms. Fisher did not say she was on this medication and not in Ex. 42 print out.	\$0.00	\$0.00

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Needs	Ages	Petitioner's Annual Cost	Times / Year	Petitioner's Cost with Offsets	Rationale	Respondent's Annual Cost	Respondent's Cost with Offsets
Tylenol/Avonex injections	Age 65 to life	\$400.00	12	\$4000 corrected to \$4800 based on math	See above.	\$0.00	\$0.00
3. Equipment							
Rolling walker with bench	Life	\$175.00	Every 4 years	\$43.75	Currently in inventory. In the past, this appears to have been paid by insurance.	\$175 every 4 years	\$0 as to be replaced when eligible for insurance (year 2 and then covered by insurance and Medicare
Rehab Shower Commode Chair	Life	\$1,932.00	Every 10 years	\$1932.90 now then \$193.20 per year	Ms. Fisher does not need this shower commode chair at this time. In addition, home modifications are designed for handicapped accessibility in bathroom.	\$0 as home modifications provided for bathroom	\$0.00
Elevated commode seat with grab bars	Life	\$101.00	Every 10 years	\$10.10	Currently in inventory.	\$101 every 10 years	\$101 every 10 years
Hoyer Lift	Age 68 to life	\$1,730.00	Every 10 years	\$1730 age 68 then \$173 per year-with offsets \$0	Ms. Fisher does not need a hoyer lift and if needed, covered in full under new insurance policy and or Medicare and Medigap policy.	\$0.00	Would be covered in full by Medicare if medically necessary
Sling for life	Age 68 to life	\$235.00	1	\$235 with offsets \$0	See above.	\$0.00	See above
Transfer board	Life	\$65.00	Every 5 years	\$65 now then \$13 per year	Ms. Fisher does not need a transfer board at this time. Unclear need.	\$0.00	\$0.00

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Needs	Ages	Petitioner's Annual Cost	Times / Year	Petitioner's Cost with Offsets	Rationale	Respondent's Annual Cost	Respondent's Cost with Offsets
Transfer Master Bed-new request	Life	\$4,704.00	Every 10 years	\$4704 now then \$470.04-at 65 \$0 as covered by Medicare	Ms. Fisher does not need a special bed at this time. If needed at 65, covered by Medicare.	\$0.00	\$0.00
Bedside handrail	Life	\$63.00	Every 5 years	With offsets \$0 as included in above	Included per above.	\$0.00	\$0.00
Overbed table	Life	\$139.00	Every 10 years	\$139 then \$13.90 per year	Ms. Fisher does not need an overbed table. She is ambulatory and working part time.	\$0.00	\$0.00
Shipping, Handling & Maintenance	Life	\$150.00	1	\$150.00		\$0.00	\$0.00
PT Aqua therapy (new request 10/10)	Life	\$25.00	2 times a week	\$2,600.00	Dr. Puzio stated that this would be beneficial, however did not recommend Ms. Fisher to attend twice a week for 52 weeks a year for life. For 2 sessions per month (24) at \$25 through age 56 then monthly related to increased need for attendant care. Y Membership is also provided below. If physical therapy is needed and medically indicated, would be covered by insurance and or Medicare.	\$600 through age 56 then \$300 per year age 57 through age 64	\$600 through age 56 then \$300 per year age 57 through age 64
Gym Membership (added by respondent)					Y membership is \$40 month for adults and \$37 for seniors and has aquatics in Waynesboro. Initial fee to join is \$75.	\$75 once then \$480 per year through age 64	\$75 once then \$480 per year through age 64
4. Aids for Independent Function							
Personal Hygiene and Dressing	Life	\$200.00	1	\$200.00	For personal hygiene and dressing assistance including reachers to assist with independence.	\$200.00	\$200.00

Jacinda Fisher  
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Needs	Ages	Petitioner's Annual Cost	Times / Year	Petitioner's Cost with Offsets	Rationale	Respondent's Annual Cost	Respondent's Cost with Offsets
Kitchen and Eating Aides	Life	\$275 now then \$100 per year	1	\$275 now then \$100 per year	Ms. Fisher did not have any difficulties with eating. Home modifications are provided for kitchen.	\$0.00	\$0.00
Aids for around the house	Life	\$100.00	1	\$100.00	See above.	\$0.00	\$0.00
Assistive Technology Evaluation	Life	\$250.00	Every 3 years	\$83.33	Ms. Fisher does not use much technology. Basic system provided below.	\$0.00	\$0.00
Shipping, Handling & Maintenance	Life	\$100 now then \$50 per year	1	\$100 now then \$50 per year	Basic systems provided below does not need maintenance.	\$0.00	\$0.00
Environmental Control Unit	Life	\$11,015.00	Every 5 years	\$11015 now then \$2203	Ms. Fisher will need a simple unit that would provide some assistance with phone, lights, bed controls etc. She does not need assistance with televisions, as she does not have any. Ablenet SiCare Light II with extra microphone & wheelchair mount at \$3973.75 with replacement every 10 years or \$397.37 per year. Once only \$1500 installation and training fee. <a href="http://www.ablenetinc.com">www.ablenetinc.com</a>	\$5473.75 now then \$397.37 per year to life	\$5473.75 now then \$397.37 per year to life
5. Wheelchair Needs							
Wheelchair power chair	Life	\$4,081.00	Every 5 years	\$816.20	Currently in inventory and not used at home. For Invacare Nutron R 51 wheelchair with joystick and articulating leg rests and batteries at \$3070.60.	\$3070.60 now then replace every 5 years or \$614	\$3080.60 now then \$0 with insurance and Medicare
Batteries	Through age 64	\$275.00	1	\$0 with offsets	Batteries for chair at \$275 each. Included in initial purchase.	\$275.00	\$0 as included
Jay 2 cushion	Through age 64	\$367.00	0.5	\$0 with offsets	Jay 2 cushion at \$330 replace every 2 years.	\$330 now then \$165 per year to life	\$330 now then \$0 with offsets

Jacinda Fisher  
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Needs	Ages	Petitioner's Annual Cost	Times / Year	Petitioner's Cost with Offsets	Rationale	Respondent's Annual Cost	Respondent's Cost with Offsets
Maintenance	Through age 64	\$408.14	1	\$408.14	Maintenance on typical power type wheelchair (similar to a scooter). Maintenance at \$200 per year and included in first year of purchase or \$160 per year to life.	\$200 per year- included in first year of purchase	\$0 year one then \$0 with offsets
Full power standing wheelchair	Age 65 to life	States average cost \$9000	Every 5 years	\$3793 per year with Medicare \$0	If needed, would be covered by Medicare and supplemental policy.	\$0 if needed	\$0.00
Batteries	Age 65 to life	\$76.99	2	\$153.98 with offsets \$0	Included with above.	\$0 if needed	\$0.00
Maintenance	Age 65 to life	\$1,000.00	1	\$1,000.00	Medicare would cover maintenance if needed.	\$0 if needed	\$0.00
Portable wheelchair ramp	Life	\$265.00	Every 10 yeas	\$265 then \$26.50	Ramp would be included in home modifications or in van, when needed. This will be used only when Ms. Fisher goes to the community with areas not wheelchair accessible. For one purchase only now.	\$265 once now	\$265 once now
6. Housing							
Renovation	Once	Updated 10/10 to \$56,375 per Ex. 62	1	\$56,375-now updated to \$54,225	Home modifications are needed for kitchen, bathroom and stairs for handicapped accessibility. Ex. 62 has \$40,725 for mods and \$15,650 to modify kitchen including \$2150 for granite. The estimate does not detail other materials used for remodeling bathroom, etc. The \$40,000 figure includes access to kitchen with wheelchair and attendant care is provided to assist. Ms. Fishers' home was assessed in 2009 for \$146,800 and another home on her street is listed at \$132,700 as of 10/10.	\$40,000.00	\$40,000.00
7. Transportation							

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Needs	Ages	Petitioner's Annual Cost	Times / Year	Petitioner's Cost with Offsets	Rationale	Respondent's Annual Cost	Respondent's Cost with Offsets
Van	2015 to life	\$35,646 in 2015	Every 10 years	\$3,564.60	Includes trade in value for \$35,646 now and \$3751.40 per year for life. Ms. Fisher currently drives and has a 2009 Kia.	\$35,646 year 2015 then replace every 10 years with 20% trade in or \$28516.80 starting 2025 to life	\$35,646 year 2015 then replace every 10 years with 20% trade in or \$28516.80 starting 2025 to life
8. Attendant Care							
Certified Home Health Aide	Through age 56	\$13.67	56 hours per week (8 hours per day)	\$39,936-corrected number is \$39,916.40	Ms. Fisher is currently working and able to complete her self care skills. She needs assistance with activities of daily living, such as laundry, cooking, etc. Per Ex. 66 of 1/11, Dr. Puzio her R/R MS with EDSS score of 6 and she had a recent exacerbation causing increase in right-sided weakness and difficult walking and is on a 6 day Medro pack. For 40 hours per week at rate of petitioner.	\$28,433.60	\$28,433.60
Certified Home Health Aide	Age 57 through 61	\$13.67	16 hours per day	\$79,832-corrected number is \$79,832.80	Average time from EDSS 6 to 7 is 3.4 years. EDSS correlates with inability to walk beyond approximately 5 meters even with aid and essentially wheelchair bound with ability to transfer. For 8 hours per day at rate of petitioner.	\$39,916.40	\$39,916.40
Professional Care Assistance	Age 62 through 67	\$20.00	18 hours per day	\$131,400.00	For 12 hours per day at \$13.67 per hour through age 64. No information provided on why rate increase.	\$59,874.60 age 62 through 64	\$59,874.60 age 62 through 64

Jacinda Fisher  
DOB: 11/09/1957

LIFE CARE PLAN  
prepared by Laura E. Fox, MSN, RN, CLCP

Resp. Ex. L  
Date Prepared 3/14/2011  
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Needs	Ages	Petitioner's Annual Cost	Times / Year	Petitioner's Cost with Offsets	Rationale	Respondent's Annual Cost	Respondent's Cost with Offsets
Skilled Care	Age 68 to life	\$30.00	24 hours per day	\$262,800.00	For 16 hours per day at \$13.67 per hour age 65 to life. It is assumed Ms. Fisher will essentially be restricted to wheelchair or bed. Live-In care is \$225 per day. If skilled care is needed intermittently, it would be provided by Medicare Part A from a home health care agency at no charge. If Ms. Fisher is unable to stay at home, skilled nursing facilities in area (Envoy of Staunton) charge \$191 per day for private room (\$69,715) or \$175 per day for semi private (\$63,875).	\$82,125 age 65 to life	\$82,125 age 65 to life



**Appendix A: Items of Compensation for Jacinda Fisher**

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
				2011	2012	2013	2014	2015	2016	2017	2018
Lost Earnings				413,854.75							
Pain and Suffering				220,576.28							
Past Unreimbursable Expenses				43,710.44							
<b>Annual Totals</b>				769,531.08	40,485.60	40,653.60	52,004.40	87,806.40	52,328.40	52,568.40	52,796.40

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 petitioner for Yr 1 life care expenses (\$91,389.61), lost earnings (\$413,854.75), pain and suffering (\$220,576.28), and past unreimbursable expenses (\$43,710.44): \$769,531.08.  
 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 above in column G.R., 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 twelve monthly installments totaling the annual amount indicated.

**Appendix A: Items of Compensation for Jacinda Fisher**

ITEMS OF COMPENSATION	G.R.	*	M	Compensation Year 9	Compensation Year 10	Compensation Year 11	Compensation Years 12-15	Compensation Year 16	Compensation Years 17-20	Compensation Year 21	Compensation Year 22 - Life
				2019	2020	2021	2022-2025	2026	2027-2030	2031	2032-Life
BCBS Premium	5%		M	7,080.00	7,272.00	7,452.00					
BCBS MOP/Deductible	5%			5,000.00	5,000.00	5,000.00					
Medigap Plan F	5%		M				1,296.00	1,296.00	1,296.00	1,296.00	1,296.00
Neurologist	5%	*									
Internal Medicine	5%	*									
Lab Work	5%	*									
MRI of Brain	5%	*									
Hospitalization	5%	*									
Baclofen	5%	*					27.98	27.98	27.98	27.98	27.98
Oxycodone	5%	*					409.68	409.68	409.68	409.68	409.68
Rolling Walker	4%	*									
Elevated Commode Seat	4%					101.00				101.00	10.10
Hoyer Lift	4%	*									
Sling for Lift	4%	*									
PT Aqua Therapy	4%			300.00	300.00	300.00					
Gym Membership	4%			480.00	480.00	480.00					
Personal Hygiene & Dressing	4%			200.00	200.00	200.00	200.00	200.00	200.00	200.00	200.00
ECU	4%					3,973.75				3,973.75	397.38
Power WC	4%	*									
WC Batteries	4%	*									
Jay 2 Cushion	4%	*									
WC Maint	4%	*									
Full Power Standing WC	4%	*									
WC Batteries	4%	*									
WC Maint	4%	*									
Portable WC Ramp	4%										
Home Mods	0%										
Van	4%							28,516.80	2,851.68	2,851.68	2,851.68
Certified Home Health Aide	4%		M								
Professional Care Assistance	4%		M	59,874.60	59,874.60	59,874.60					
Skilled Care	4%		M				82,125.00	82,125.00	82,125.00	82,125.00	82,125.00

**Appendix A: Items of Compensation for Jacinda Fisher**

ITEMS OF COMPENSATION	G.R.	*	M	Compensation Year 9	Compensation Year 10	Compensation Year 11	Compensation Years 12-15	Compensation Year 16	Compensation Years 17-20	Compensation Year 21	Compensation Year 22 - Life
				2019	2020	2021	2022-2025	2026	2027-2030	2031	2032-Life
Lost Earnings											
Pain and Suffering											
Past Unreimbursable Expenses											
<b>Annual Totals</b>				72,934.60	73,126.60	77,381.35	84,058.66	112,575.46	86,910.34	90,985.09	87,317.82

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 petitioner for Yr 1 life care expenses (\$91,389.61), lost earnings (\$413,854.75), pain and suffering (\$220,576.28), and past unreimbursable expenses (\$43,710.44): \$769,531.08.  
 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 above in column G.R., 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 twelve monthly installments totaling the annual amount indicated.