



## **A LIFETIME OF HELP VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM**

The birth of a baby is an exciting and wonderful time. Despite the skill and dedication of physicians and hospitals, complications during birth sometimes occur. Although rare, among the more serious of these complications is one that results in severe damage to a newborn's nervous system – called a “neurological injury.” This type of injury may have a catastrophic physical, emotional and financial impact on a child and family.

In 1987, the Virginia General Assembly passed a law that offers an alternative to lengthy malpractice litigation when a qualifying neurological injury occurs at birth. The law created the Virginia Birth-Related Neurological Injury Compensation Program.

### **EXCLUSIVE REMEDY**

The law provides that awards under the Program are exclusive. That means that if an injury is covered by the Program, the child and his or her family are not entitled to compensation from a malpractice lawsuit. Instead, the child is eligible for a lifetime of benefits from the Virginia Birth-Related Neurological Injury Compensation Program.

### **CRITERIA AND COVERAGE**

A “birth-related neurological injury” is defined by the Virginia law as an injury to the brain or spinal cord of an infant. The injury must be caused by oxygen deprivation or mechanical injury occurring in the course of labor, delivery or resuscitation necessitated by oxygen deprivation or mechanical injury that occurred in the course of labor or delivery in a hospital.

The injury must render the infant permanently motorically disabled and (i) developmentally disabled or (ii) for infants sufficiently developed to be cognitively evaluated, cognitively disabled. The disability must cause the infant to be permanently in need of assistance in all activities of daily living.

The law only applies to live births. It does not apply to disability or death caused by genetic or congenital abnormality, degenerative neurological disease, or substance abuse by the infant's mother.

The law only applies if the hospital at which you deliver or the physician/midwife delivering obstetrical services at the birth of your child participates in the Program at the time of birth.

## **BENEFITS**

The Program's benefits are established by Virginia law. The Program may provide actual medically necessary and reasonable expenses for:

- Medical care
- Hospital care
- Rehabilitative care
- Residential and custodial care and service
- Special equipment or facilities
- Related travel expenses
- Loss of earnings from age 18 to 65
- Reasonable expenses for filing the claim, including attorneys' fees
- An award not exceeding \$100,000 to the family of an infant dying within 180 days after birth

## **BENEFITS NOT COVERED**

- Expenses covered by other government programs
- Expenses covered by prepaid health plans, HMOs or private insurance

The Program is one of only two in the United States and is devoted to managing a fund that provides benefits for children who suffer a qualifying birth-related neurological injury. The Program takes a "no fault" approach. This means that no costly litigation concerning who, if anyone, may be at fault is required, and the parents of a child qualifying under the law who file a claim with the Virginia Workers' Compensation Commission may have all the benefits listed in this brochure paid by the Program.

You may be eligible for this Program if your physician (or nurse midwife) or hospital participates in it. If your physician/midwife or hospital participates, that means they have purchased this benefit for you if your infant suffers a birth-related neurological injury that qualifies under the law. If your physician or hospital has provided you with a copy of this informational form, they are notifying you whether or not they participate in the Program. The University of Virginia Medical Center and the Licensed Independent Practitioners in the Departments of OB-GYN, Family Medicine, and the Teen Health Center do not participate in the Virginia Birth-Related Neurological Injury Compensation Program.

If you would like more information or would like to receive a copy of the Virginia laws concerning the Program, please see the Program's website, call or write:

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