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Medical Budget to Include Birth Injury Funds Established in New York

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A new birth injury neurological fund for 2011-2012 has been set up by the state of New York to cover birth injury lawsuits; however, it is receiving much controversy as to who is truly benefiting from this endeavor. A large contributing factor to this initiative is the fact that hospitals will save an estimated \$320 million in malpractice premiums, according to the Greater New York Hospital Association because over half of all medical malpractice lawsuits filed are birth-related.

According to Times Union, New York hospitals will no longer cover medical costs for children who have suffered a birth injury due to medical malpractice, instead, any birth injury lawsuit or birth injury settlement will be paid by the state. One of the conditions of having a brain or spinal cord related birth injury covered is that it has to be, “caused by the deprivation of oxygen or mechanical injury in the course of labor, delivery or resuscitation or by other medical services provided or not provided during delivery admission”. What has some patient advocates concerned is that they believe having the government pay for medical negligence cases will allow the responsible medical parties to go “unpunished” and free from criticism. The medical community, however, largely supports the initiative assuring the community that hospitals will be frequently monitored and as part of the health budget plan, a “state obstetrical patient safety workgroup” will be established to help ensure that medical professionals are following the standard medical practices expected of them while in the delivery room.

Sources report that New York will contribute to the birth injury fund as follows: \$30 million will be put into to the fund in its first year before increasing to \$70 million in its second and third years. By its fourth year, the state will be contributing \$100 million to the fund. Now, families still must file lawsuits and prove medical negligence in court and if they win or settle the lawsuit, they would then be enrolled into the fund. The fund then pays for the child’s lifetime medical costs, however, the defendants are still responsible for attorneys’ fees and any punitive damages awarded by a jury.

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