STATE OF FLORIDA AUDITOR GENERAL

Operational Audit

Report No. 2027-045
November 2026

FLORIDA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION ASSOCIATION

Sherrill F. Norman, CPA
Auditor General

Board of Directors and Executive Director of the Florida Birth-Related Neurological Injury Compensation Association

Section 766.303, Florida Statutes, establishes the Florida Birth-Related Neurological Injury Compensation Plan (Plan) to provide compensation, irrespective of fault, for neurological injury claims related to births occurring on or after January 1, 1989. Section 766.315(1), Florida Statutes, provides for the Plan to be governed by a seven-member Board of Directors appointed by the State's Chief Financial Officer and referred to as the Florida Birth-Related Neurological Injury Compensation Association (NICA). The NICA Board comprises one representative from each of the following groups: participating physicians, hospitals, casualty insurers, physicians other than participating physicians, the general public, parent or legal guardian of an injured infant under the Plan, and advocacy organizations for children with disabilities.

During the period of our audit, Melissa Jaacks served as Executive Director of NICA and the following individuals served as Board members:

Representing:	Board Member:
Advocacy Organizations	Jim DeBeaugrine, MPA, Chair
Participating Physicians	Julie Ann Zemaitis DeCesare, M.D.
Hospitals	Narendra Dereddy, M.D.
Casualty Insurers	Vacant through August 14, 2024 Randall Jenkins from August 15, 2024
Non-Participating Physicians	Vacant
Participating Parent or Legal Guardian	Renee Oliver
General Public	Bradley Tilghman

The Auditor General conducts audits of government entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

The team leader was Jay Rees, CPA, the audit was supervised by Aaron Franz, CPA.

Please address inquiries regarding this report to Joshua Barrett, CPA, Audit Manager, by e-mail at joshuabarrett@aud.state.fl.us or by telephone at (850) 412-2804.

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FLORIDA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION ASSOCIATION

SUMMARY

This operational audit of the Florida Birth-Related Neurological Injury Compensation Association (NICA) focused on NICA's administration of the Florida Birth-Related Neurological Compensation Plan (Plan), including NICA's compliance with Sections 766.303 through 766.315, Florida Statutes, and applicable State public records and meetings laws. The audit also included an examination of selected NICA administrative activities and a follow-up on the findings noted in our report No. 2024-037. Our audit disclosed the following:

Plan Administration

Finding 1: Analysis of Plan participant survey responses indicated opportunities for NICA to provide clearer explanations of decisions on benefit exception requests and responses to participant questions.

Information Technology Controls

Finding 2: As similarly noted in our report No. 2024-037, certain security controls related to network domain, virtual private network, and Claims Accounting and Reserves Electronic System user authentication need improvement to ensure the confidentiality, integrity, and availability of NICA data and information technology resources.

BACKGROUND

State law[1] establishes the Florida Birth-Related Neurological Injury Compensation Plan (Plan) to provide compensation, irrespective of fault, for neurological injury claims related to births occurring on or after January 1, 1989. State law[2] defines a "birth-related neurological injury" as an injury to the brain or spinal cord of a live infant weighing at least 2,500 grams for a single gestation or, in the case of a multiple gestation, a live infant weighing at least 2,000 grams at birth caused by oxygen deprivation or mechanical injury occurring in the course of labor, delivery, or resuscitation in the immediate postdelivery period in a hospital, which renders the infant permanently and substantially mentally and physically impaired. The definition applies to live births only and does not include disability or death caused by genetic or congenital abnormality.

The Plan is governed by a seven-member Board of Directors (Board) appointed by the State's Chief Financial Officer and referred to as the Florida Birth-Related Neurological Injury Compensation Association (NICA). The NICA Board comprises one representative from each of the following groups:[3]

- Participating physicians.
- Hospitals.

[1] Section 766.303(1), Florida Statutes.

[2] Section 766.302(2), Florida Statutes.

[3] Section 766.315, Florida Statutes.

- Casualty insurers.
- Physicians other than participating physicians.
- Parents or legal guardian representatives of injured infants under the Plan.
- Advocacy organizations for children with disabilities.
- The general public.

NICA is not considered a State agency, board, or commission.

FINDINGS AND RECOMMENDATIONS

PLAN ADMINISTRATION

State law[4] specifies that an administrative law judge (ALJ) with the Division of Administrative Hearings (DOAH) has exclusive jurisdiction to determine whether a claim filed with NICA is compensable. State law further specifies that no civil action may be brought until a compensability decision has been made by an ALJ. Claims for compensation commence by the claimant filing a petition with DOAH and, if a petition is approved by an ALJ, the claimant becomes a participant in the Plan and entitled to compensation awards for medically necessary and reasonable expenses, including hospital, habilitative and training, drugs, special equipment, facilities, and related travel. Additionally, NICA is to provide Plan participants compensation for the expenses summarized in Table 1.

Table 1
Additional Statutorily Authorized Compensation for NICA Participants

	Payment of an award to the infant's parents or legal guardians not to exceed $250,000, adjusted 3 percent annually.
	Housing assistance of up to $100,000 for the life of the child.
	Payment of a $50,000 death benefit for an infant in the Plan.
	Reliable transportation for the care of the child, with replacement vans to be purchased by NICA every 7 years or 150,000 miles, whichever occurs first.
	Annual benefit of up to $10,000 for the immediate family members living with the child for psychotherapeutic services.
	Reasonable expenses incurred in connection with the filing of a claim, including attorney's fees.

Source: Section 766.31, Florida Statutes.

Compensation is not to be provided for expenses related to items or services that the infant has received or is entitled to receive, or expenses for which the infant has received reimbursement, or for which the infant is contractually entitled to receive reimbursement, from any prepaid health plan, health

[4] Section 766.304, Florida Statutes.

maintenance organization, or other private insuring entity. In addition, compensation is not to be provided for expenses for items or services that the infant has received, or is entitled to receive, or expenses for which the infant has received reimbursement, or for which the infant is entitled to receive reimbursement, under the laws of any state or the Federal Government, except to the extent such exclusion may be prohibited by Federal law.[5] According to NICA records, during the period July 2024 through January 2026, 389 claimants were reimbursed for claims totaling approximately $118.4 million.

NICA created a Web-based system, the Claims Accounting and Reserves Electronic System (CARES), to track participant activity, such as ALJ orders, participant contact information, and claims for reimbursement. In addition, NICA utilizes CARES to aggregate participant cost estimates used to produce statutorily required reports.

Finding 1: NICA Plan Participant Survey

To measure the degree of Plan participant satisfaction, in April 2026 we surveyed the 276 individuals listed as contacts for the 258 participants active in the Plan as of January 31, 2026. Survey questions, listed in ***EXHIBIT A*** to this report, addressed participant satisfaction with the 2025 *Benefit Handbook* (*Handbook*),[6] including the *Handbook* addendum, explanation of rights and benefits, NICA's handling of questions and complaints, and the benefit dispute resolution process.

As summarized in Table 2, we received survey responses from 82 respondents and our analysis of those responses, as well as comparison to the April 2023 survey responses included in our report No. 2024-037 (summarized in Table 3), indicated that, while respondents indicated overall satisfaction with the explanation of benefits and participant rights provided in the *Handbook* and addendum, some were still not satisfied with NICA's explanations for decisions on benefit exception requests and responses to participant questions.

[5] Section 766.31(1)(b), Florida Statutes.

[6] The *Handbook* outlines participant rights, allowable expenses, benefit information, and procedures for filing reimbursement claims and benefit disputes.

Table 2
April 2026 Plan Participant Survey Results

	Dissatisfied		Satisfied		
	Number of Responses	Percentage of Responses	Number of Responses	Percentage of Responses	Total Number of Responses [a]
NICA *Handbook* and addendum were received.	17	24%	53	76%	70
NICA *Handbook* and addendum were adequate to understand rights and authorized benefits.	4	6%	62	94%	66
NICA's decisions on benefit exception requests were adequately explained.	8	33%	16	67%	24
Participant was satisfied regarding NICA's responses to questions. [b]	18	25%	54	75%	72
NICA timely and appropriately responded to participant complaint.	6	17%	30	83%	36

[a] Not all 82 survey respondents provided responses to every question.

[b] Eight survey respondents indicated that they were neither satisfied nor dissatisfied with NICA's responses to questions.

Source: Survey responses from individuals listed by NICA as contacts for participants.

Table 3
April 2023 Plan Participant Survey Results

	Dissatisfied		Satisfied		
	Number of Responses	Percentage of Responses	Number of Responses	Percentage of Responses	Total Number of Responses [a]
NICA *Handbook* was received.	19	21%	73	79%	92
NICA *Handbook* was adequate to understand rights and authorized benefits.	8	11%	63	89%	71
NICA's decisions on benefit exception requests were adequately explained.	6	24%	19	76%	25
Participant was satisfied with NICA's response to questions. [b]	17	19%	73	81%	90
NICA timely and appropriately responded to participant complaint.	8	50%	8	50%	16

[a] Not all 98 survey respondents provided responses to every question.

[b] Four survey respondents indicated that they were neither satisfied nor dissatisfied with NICA's responses to questions.

Source: Survey responses from individuals listed by NICA as contacts for participants.

Recommendation: We recommend that NICA management continue efforts to provide quality services to participants, including adequate responses to participant questions and clear information when responding to benefit exception requests.

INFORMATION TECHNOLOGY CONTROLS

As part of our audit, we evaluated selected NICA information technology (IT) controls, including security controls related to user authentication. User authentication controls verify the identity of individuals accessing NICA systems and help ensure that only authorized users are granted access.

Finding 2: Security Controls – User Authentication

Security controls are intended to protect the confidentiality, integrity, and availability of data and IT resources. Our audit procedures disclosed that certain security controls related to network domain, NICA virtual private network (VPN), and CARES user authentication need improvement. We are not disclosing the specific details of the issues in this report to avoid the possibility of compromising NICA data and related IT resources. However, we have notified appropriate NICA management of the specific issues.

Without appropriate security controls related to network domain, VPN, and CARES user authentication, the risk is increased that the confidentiality, integrity, and availability of NICA data and related IT resources may be compromised. A similar finding related to network domain, VPN, and CARES user authentication was communicated to NICA management in connection with our report No. 2024-037.

Recommendation: We again recommend that NICA management improve certain security controls related to network domain, VPN, and CARES user authentication to ensure the confidentiality, integrity, and availability of NICA data and related IT resources.

PRIOR AUDIT FOLLOW-UP

Except as discussed in the preceding paragraphs, NICA had taken corrective actions for the findings included in our report No. 2024-037.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from March 2026 through August 2026 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This operational audit of the Florida Birth-Related Neurological Injury Compensation Association (NICA) focused on NICA's administration of the Florida Birth Related Neurological Compensation Plan (Plan), including NICA's compliance with Sections 766.303 through 766.315, Florida Statutes, and applicable State public records and meeting laws. This audit also included an examination of selected NICA administrative activities. For those areas, the objectives of the audit were to:

- Evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines.

- Examine internal controls designed and placed into operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, the reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those internal controls.
- Determine whether management had corrected, or was in the process of correcting, all deficiencies disclosed in our report No. 2024-037.
- Identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in internal controls significant to our audit objectives; instances of noncompliance with applicable governing laws, rules, or contracts; and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; identifying and evaluating internal controls significant to our audit objectives; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit's findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included the selection and examination of transactions and records. Unless otherwise indicated in this report, these transactions and records were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature does not include a review of all records and actions of agency management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, waste, abuse, or inefficiency.

In conducting our audit, we:

- Reviewed applicable laws and NICA policies and procedures and interviewed NICA personnel to obtain an understanding of NICA Plan processes and related responsibilities.
- Interviewed NICA management and compared the 2025 NICA *Benefit Handbook* (*Handbook*) and *Handbook* addendum to applicable laws to determine whether the *Handbook* and addendum were designed in a manner that effectively assisted participants when filing claims for reimbursement, informed participants of their rights, and assisted NICA case managers when reviewing participant claims for reimbursement.
- To measure NICA Plan participant satisfaction, sent surveys to the 276 individuals listed as contacts for the 258 participants active in the Plan as of January 31, 2026. We then combined and analyzed the survey responses from the 82 individuals who returned the survey, including

comparing applicable survey responses to the responses received to our April 2023 participant survey.

- From the population of 121 claimant petitions filed with a Division of Administrative Hearings (DOAH) administrative law judge during the period July 2024 through January 2026, examined NICA records for 20 selected claimant petitions to determine whether NICA adhered to the filing time frames established in State law.
- From the population of 35 NICA participant compensation awards executed during the period July 2024 through January 2026, examined NICA records for 15 selected awards to determine whether claims eligibility determinations were made in accordance with State law, participant claims were appropriate and timely paid, and whether the present value of the total costs of the participant claims were timely estimated.
- Interviewed NICA management and inspected NICA records for the present value of total claims costs for the quarters ended September 2024, December 2024, March 2025, June 2025, and September 2025 to determine whether NICA updated the present value of total claims costs on a quarterly basis in accordance with State law.
- Compared NICA's estimated present value of the total cost of claims for the quarters ended September 2024, December 2024, March 2025, June 2025, and September 2025 to the total of all funds on hand for those quarters to determine whether NICA procedures for projecting available funds included only statutorily allowable funds and appropriately assessed whether the total of all funds on hand, and expected to become available within the next 12 months, covered at least 100 percent of NICA's estimated present value of the total cost of claims.
- From the population of 29,543 claimant reimbursement claims that exceeded $100 and were paid during the period July 2024 through January 2026, totaling $118,371,475, examined NICA records for 25 selected participant reimbursement claims totaling $567,253 to determine whether NICA ensured that payments were made to claimants awarded compensation, payments were timely, authorized, appropriately supported, and allowable under State law, and whether any potential conflicts of interest between NICA personnel or the NICA Board of Directors (Board) and the participant or contracted service and equipment providers requesting reimbursement were properly disclosed. Additionally, we selected and examined the records for 12 participant reimbursement claims for equipment totaling $104,563 to determine whether the claims were appropriately supported.
- Examined NICA records for 5 survey respondents who indicated that their claims, totaling $7,186, had been denied by NICA and for 20 denied reimbursement claims totaling $42,283, selected from the population of 59 participant reimbursement claims denied by NICA during the period July 2024 through January 2026 and totaling $64,529, to determine whether NICA records included adequate support for the denials and evidenced that sufficient justification was provided to the participants in denying the reimbursement requests. Additionally, we examined the records for the 25 selected denied reimbursement claims to determine whether any potential conflicts of interest between NICA personnel or the NICA Board and the participant or contracted service and equipment providers requesting reimbursement were properly disclosed.
- To determine whether NICA established adequate controls to ensure the timely collection and remittance of assessment fees to the Plan and appropriately charged interest for late or unpaid assessment fees, we:
    - Analyzed data for the $9,645,000 in fees assessed to 2,155 participating physicians and midwives for the 2026 assessment period.
    - Analyzed data for the $25,169,000 in fees assessed to 100,676 non-participating physicians for the 2026 assessment period.

- Analyzed data for the $10,875,600 in fees assessed to 111 hospitals for the 2024 assessment period and reviewed NICA records for the 10 hospitals that did not timely submit assessment fees to determine whether NICA appropriately calculated and charged interest when assessment fees were not timely received.

- Compared NICA assessment fee rates to another state's assessment fee rates to evaluate whether NICA's assessment fee rates appeared reasonable.
- Interviewed NICA management, inspected NICA participant records, and reviewed DOAH case summaries for the 128 NICA cases with orders issued during the period July 2024 through January 2026 to determine whether participants had filed benefit disputes with DOAH and whether NICA had established processes to track denied claims for reimbursement.
- From the population of 2,289 general and administrative expenses, totaling $11,611,835 and incurred during the period July 2024 through January 2026, examined NICA records for 25 selected expenses, totaling $581,309, to determine whether NICA general and administrative expenses were adequately supported, clearly necessary to the performance of NICA's statutory duties, and served an apparent public purpose.
- Interviewed NICA management and examined NICA records related to NICA's text message and iMessage retention capabilities to determine whether NICA had established adequate controls to retain text messages and iMessages in accordance with State law.
- Obtained an understanding of NICA network domain, virtual private network, and Claims Accounting and Reserves Electronic System information technology (IT) controls, assessed the risks related to those controls, evaluated whether selected general IT controls were in place, and tested the effectiveness of the selected controls.
- Interviewed NICA management and reviewed NICA Board meeting records for meetings held during the period July 2024 through January 2026 to determine whether Board meetings were publicly held, properly noticed, and promptly recorded in the public record. Additionally, we examined NICA records to determine whether Board members did not have, or properly disclosed, any conflict of interest with entities, Plan participants, or goods or service equipment providers discussed in Board meetings.
- Reviewed the November 2025 NICA annual report and the January 2026 report published to NICA's Web site to determine whether NICA timely and appropriately prepared the reports in accordance with Section 766.315(7) and (8), Florida Statutes. Additionally, compared certain report information to NICA supporting records to determine whether the reports were accurate and complete.
- Inspected documents and records to determine whether NICA provided sufficient information to each parent and legal guardian regarding compensable expenses in accordance with Section 766.315(6), Florida Statutes.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading ***MANAGEMENT'S RESPONSE***.

AUTHORITY

Section 11.45, Florida Statutes, requires that the Auditor General conduct an operational audit of the Florida Birth-Related Neurological Injury Compensation Association at least once every 3 years. Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



Sherrill F. Norman, CPA
Auditor General

EXHIBIT A

PARTICIPANT SURVEY QUESTIONS

NICA Benefit Handbook	
1.	Did you receive a copy of the December 2025 NICA Benefit Handbook and NICA Benefit Handbook Addendum?
2.	How clearly did the NICA Benefit Handbook and Addendum help you understand your rights and what services and equipment were authorized under the Plan?
3.	If your response to Survey Question No. 2 was “Somewhat clearly”, “Not very clearly”, or “Not at all clearly”, please briefly explain what was unclear and provide suggestions for improvement.
NICA Participant Service	
4.	If you contacted NICA with questions regarding your benefits under the Plan during the period July 2024 through January 2026, please rate your level of satisfaction with NICA’s response to your questions, considering both the timeliness and appropriateness of NICA’s response.
5.	If you were less than satisfied, please provide details describing the reason(s) for your lack of satisfaction.
Claims Reimbursement	
6.	If you requested reimbursement for expenses from medical providers and pharmacies during the period July 2024 through January 2026, did NICA approve your request?
7.	If you answered “None of my requests were approved” or “Some, but not all requests were approved” please provide a brief description of the reason(s) NICA provided for denying your request.
Benefit Dispute	
8.	If you requested, by letter, that a benefit not specifically addressed in NICA’s Benefit Handbook be reviewed by the Executive Director as an exception during the period July 2024 through January 2026, were you satisfied with the explanation provided in relation to the Executive Director's decision?
9.	If you answered “No”, please describe what was lacking from the explanation.
Complaints	
10.	If you filed a complaint with NICA during the period July 2024 through January 2026, how satisfied were you with NICA’s response, considering both the timeliness and appropriateness of the response?
11.	If you answered question 10 as less than satisfied, please provide details describing the reason(s) for your lack of satisfaction.

MANAGEMENT'S RESPONSE



November 10, 2026

Ms. Sherrill F. Norman, CPA
Auditor General
Claude Denson Pepper Building, Suite G74
111 West Madison Street
Tallahassee, FL 32399-1450

Dear Ms. Norman:

Thank you for sharing a copy of the Auditor General's Office Operational Audit Report for the Florida Birth-Related Neurological Injury Compensation Association (NICA) with us and allowing the opportunity to respond to the report. Please accept this as the formal response for NICA.

We appreciate the courtesy extended by the staff of the Auditor General's Office as well as the auditors who performed the testing during the course of the audit. We are pleased at the limited number of findings this year – it reflects our focus on constant improvement in the services we provide to the NICA families and the stewardship of our state resources.

Finding 1:

Analysis of Plan participant survey responses indicated opportunities for NICA to provide clearer explanations of decisions on benefit exception requests and responses to participant questions.

Response: We are continuously working to improve communication with families regarding benefits. We are pleased that the percentage who indicated that the Handbook and addendum were adequate to understand rights and authorized benefits increased from the prior survey as we have been working to make the Benefit Handbook easier to understand. We continue to work on ways to ensure that families are aware of any changes to the Benefit Handbook and that families are provided clear explanations on benefit decisions.

Finding 2:

As similarly noted in our report No. 2024-037, certain security controls related to network domain, virtual private network, and Claims Accounting and Reserves Electronic System user authentication need improvement to ensure the confidentiality, integrity, and availability of NICA data and information technology resources.

Response: We are continually monitoring our controls over data and information technology resources and have implemented several improvements to strengthen those controls. We will continue to adapt and adjust to this constantly changing environment.

Sincerely,

Melissa Jaacks

Melissa Jaacks, CPA
Executive Director

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