

## **Q: What is the Medical Indemnity Fund and Why Was It Created?**

**A:** The Medical Indemnity Fund (“Fund” or “MIF”) was established in 2011 to provide a funding source for future health care costs associated with birth-related neurological injuries. Enrollees of the Fund are plaintiffs in medical malpractice actions who have received either court-approved settlements or judgments deeming the plaintiffs’ neurological impairments to be birth-related.

The Fund’s purposes are to (1) pay or reimburse the costs necessary to meet the health care needs of qualified plaintiffs throughout the plaintiff’s lifetime and (2) lower the expenses associated with medical malpractice litigation throughout the healthcare system. To achieve its purposes, it is designed to pay the cost of all future health care needs of plaintiffs who have received either a court-approved settlement or a judgment as a result of a medical malpractice action alleging that the plaintiff’s neurological injuries were the result of medical malpractice during the delivery admission.

The Fund was created as an amendment to Article 29-D of the New York Public Health Law in 2011. Regulations governing the proper administration of the Fund are the responsibility of the Commissioner of Health in consultation with New York State Department of Financial Services. The regulations are set forth in 10 NYCRR Subpart 69-10.

Information about the Fund can be found on the DOH website at: [www.health.ny.gov/mif](http://www.health.ny.gov/mif)

## **Q: Who Is Eligible for Enrollment in the Fund?**

**A:** Any person who has been deemed in a court-approved settlement or found in a judgment to have sustained a “birth-related neurological injury” as a result of medical malpractice or alleged medical malpractice is a “qualified plaintiff” for enrollment purposes.

## **Q: What Costs Will the Fund Cover or Reimburse?**

**A:** The Fund will pay or reimburse the cost of those health care services, supplies, equipment, and medications that the qualified plaintiff’s physician, physician assistant or nurse practitioner has determined are necessary to meet the qualified plaintiff’s health care needs. These can be found under section 69-10.1 (z) “Qualifying Health Care Costs” by clicking the link below:

[New York Codes, Rules and Regulations \(westlaw.com\)](http://www.westlaw.com/ny/codes-rules-regulations)

Services, supplies or equipment provided to or available to enrollees under an individual Education Program, Preschool Supportive Health Services, and the Early Intervention Program or through any commercial insurance under which the enrollee is covered are not covered by the Fund.

## **Q: At What Reimbursement Rates Are Qualified Health Care Costs Paid by the Fund?**

**A:** Qualifying health care services are reimbursed at the 80<sup>th</sup> percentile of the “usual and customary rate” for that type of practice in the geographic area in which the practice is located, as reported by Fair Health, Inc. Where no such rate exists, qualifying health care services are

paid at the greater of 130% of Medicaid or the Medicare rate. Providers cannot bill the qualified plaintiff or persons authorized to act on behalf of the plaintiff for any additional amount beyond the amount covered by the Fund.

**Q: Who Administers the Fund?**

**A:** The Fund is administered by DOH. DOH has contracted with Public Consulting Group Inc. (PCG) to administer healthcare and pharmacy benefit claims processing and day-to-day operations of the Fund.