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Metro Extra

“Legislature passes hospital claims bills”

By Sandra Jacobs

During the final hours of the legislative session, lawmakers on Friday night required Broward General Medical Center to pay more than the state maximum for negligence in two childbirth cases.

Brent Eldred, an 11-years-old who has learning disabilities, was awarded \$584,000 to pay for special schooling and a lifelong loss of earning. A jury had decided that Broward General was responsible for the brain-damaging meningitis he contracted soon after birth in the hospital.

Gerard and Denise Clearwater were awarded \$355,840 for emotional pain and suffering. In December 1980, Denise Clearwater gave birth at home on a couch hours after a Broward General doctor said her labor signs were false and sent her home. The child suffered brain damage and dies one month later. Gov. Bob Martinez could veto the claims bills in the next 15 days, as he did last year.

In both cases, juries originally awarded the families more than the \$100,000 state limit on liability judgments against public institutions such as Broward General, which receives a portion of its budget from property taxes.

The Legislature can make an exception in the form of a claims bill, as was filed in each of these two cases by Sen. Peter Weinstein, D-Coral Springs.

A jury originally determined that Broward General should pay Eldred \$900,000. The Clearwaters were awarded \$471,591, of which \$100,000 already has been paid.

William Scherer attorney for the North Broward Hospital District, which oversees the hospital, said the district should not have to pay the high awards because juries are usually overly sympathetic in child injury cases. He also argued that the financially strapped district has more immediate obligations in caring for people who cannot afford to pay for care.

A special master, called in by the Senate to evaluate the cases, recommended the amounts that were awarded on Friday. This is the third year Weinstein has filed the bills. In 1987, time ran out in the legislative session before the bills could be considered.

Last year, the Legislature awarded Eldred \$700,000 but the governor vetoed the Clearwaters' award, saying there was not public purpose served by awarding the family

more than the \$100,000 already received for “often-indeterminable non-economics damages.”

Sheldon Schlesinger, attorney for the families, said political pressure from the North Broward Hospital District kept the bills off the legislative calendar until the last minute and caused the governor’s veto last year. But on Friday, he was optimistic.

“The last time there was no question but that he vetoed it out of ignorance.” Schlesinger said. “If he’s a fair-minded man, he won’t veto it.”