

Hospital, US Hit With \$10.8M Verdict Over Baby's Hypoxia

By [Mike Curley](#)

Law360 (June 4, 2021, 2:04 PM EDT) -- A West Virginia federal jury has hit Raleigh General Hospital and the U.S. government with a \$10.8 million verdict in a suit by a couple who alleged the hospital's staff caused their newborn to suffer a lack of oxygen, or hypoxia, leaving her with cerebral palsy.

In a verdict reached Thursday, the jury found the staff at Raleigh General and the government deviated from the standard of care for Ryan and Crystal Hysell's child, Aubrie, and that the hospital was 70% responsible for her injuries while the U.S., as funder of Access Health, was 30% responsible.

The verdict includes \$9 million for future medical expenses and treatment, \$837,527 for loss of future earnings, and \$1 million in noneconomic damages.

According to the complaint, Aubrie Hysell was born on Oct. 29, 2010, and had to be resuscitated shortly after birth, but no records are available to determine what happened in the 13 minutes between her birth and admission to the hospital's nursery.

Aubrie Hysell was not seen by a pediatrician despite a fetal monitor showing abnormalities, and over the next few years, she did not meet appropriate growing milestones, according to the complaint, which said she was diagnosed with "failure to thrive."

While an MRI was taken of Aubrie Hysell, her parents were told that it reported as normal, only to find out later in another MRI in 2016 she had abnormalities in the brain likely caused by hypoxia at birth, according to the complaint.

Because of the error, the Hysells said they spent years trying to determine the cause of their daughter's abnormalities and that the hospital has refused to find additional records of what transpired between the child's birth and her admission to the nursery.

And as a result of the hospital's actions, the Hysells said their child will have to deal with the condition for her entire life.

Representatives for the Hysells, Raleigh General and the U.S. government could not immediately be reached for comment Friday.

The Hysells are represented by Barry J. Nace and Christopher T. Nace of [Paulson & Nace PLLC](#).

The hospital is represented by D.C. Offutt Jr. and Jody Offutt Simmons of [Offutt Nord PLLC](#) and C.J. Gideon Jr. and Bryan Essary of Gideon Essary Tardio & Carter PLC.

The government is represented by Acting U.S. Attorney for the Southern District of West Virginia Lisa G. Johnston and Fred B. Westfall of the [U.S. Attorney's Office](#).

The case is Hysell et al. v. Raleigh General Hospital et al., case number [5:18-cv-01375](#), in the [U.S. District Court for the Southern District of West Virginia](#).

--Editing by Philip Shea.

Update: This story has been updated with additional counsel information.