

IN RE: NATIONAL FOOTBALL
LEAGUE PLAYERS' CONCUSSION
INJURY LITIGATION

Appeal 2026-3¹

THIS DOCUMENT RELATES TO:
APPEAL OF SETTLEMENT CLASS
MEMBER [REDACTED]
REGARDING DENIAL OF
MONETARY AWARD

avoid needlessly delaying an inevitable outcome, I nevertheless grant the appeal in part, confirming a Qualifying Diagnosis of Alzheimer's Disease as of June 7, 2017.

CLAIM HISTORY

Mr. ██████'s first-filed Claim, originally for Level 2.0 Neurocognitive Impairment, resulted from a series of visits with Dr. ██████ in 2014. Dr. ██████ provided supportive testing in May, 2014. Doc. 92746. Dr. ██████ ultimately dated Mr. ██████'s pre-effective date diagnosis to June 18 of that year. Docs. 92744, 92745.

The AAP, noting that Mr. ██████ then had functional abilities inconsistent with a Level 2.0 Award, and that his neuropsychological tests were neither clearly valid nor clearly aligned the injury definitions, recommended a Level 1.5 Award instead. After an extensive Audit, in 2019 the Claims Administrator ultimately approved a Qualifying Diagnosis at that Level—dated to June 18, 2014.

The subsequent years were marked by friction in Mr. ██████'s efforts to secure additional benefits under the program. Results from his BAP testing were inordinately delayed. When his physician, Dr. ██████ ultimately submitted a report in 2025 after repeated prompting, he noted a decline in Mr. ██████'s cognitive health. Referring generally to "old medical records made available to me from multiple outside treating physicians," Dr. ██████ stated that Mr. ██████ suffered from Alzheimer's Disease. Doc. 378273. He also described his own examination, which found that Mr. ██████ was only "partially oriented" and required assistance with dressing, eating, and toileting. However, despite describing advanced functional decline consistent with Alzheimer's Disease, Dr. ██████ certified only a Qualifying Diagnosis of Level 2 Neurocognitive Impairment. He dated this impairment back to May, 2014, before the doctor had seen Mr. ██████, presumably based on Dr. ██████'s earlier examination.² Doc. 378274.

Three months later, Dr. ██████ submitted his own DPC, asserting a Qualifying Diagnosis of Alzheimer's Disease dated again to May 9, 2014. Doc. 390398. That assessment relied both on Dr. ██████'s observations and records created during Dr. ██████'s post-2014 treatment of Mr. ██████.

On October 22, 2025, the Claims Administrator denied the Claim in its totality. It wrote:

The Player received a Notice of Monetary Award Claim Determination on 6/5/2019, for a Pre-Effective diagnosis of Level 1.5 Neurocognitive Impairment dated 6/18/2014, based on an evaluation by Dr. ██████.

The Player was later evaluated by Dr. ██████ on 4/23/2025, who diagnosed him with Alzheimer's Disease on 5/9/2014. The Player submitted a Supplemental Monetary Award claim for that diagnosis.

² Dr. ██████ said he relied on ██████'s exams, but that clinician did not examine Mr. ██████ in 2014.

Pursuant to Section 6.8 of the Settlement Agreement, a Supplemental Qualifying Diagnosis must be different from any Qualifying Diagnosis for which the Player has previously received a Monetary Award, and the Player must have a Qualifying Diagnosis date that is after the date of the Qualifying Diagnosis for which he previously received a Monetary Award.

Because you submitted a Claim Package for a Supplemental Claim that is dated prior to the Qualifying Diagnosis for which you previously received a Monetary Award, your claim is not eligible for a Supplemental Monetary Award under Section 6.8 of the Settlement Agreement.

Doc. 410627.

Mr. ██████ filed a timely appeal.

RESOLVING THIS APPEAL

To prevail on appeal, Mr. ██████ must show by clear and convincing evidence that the Claims Administrator's denial was in error. Mr. ██████ argues that the Claims Administrator misinterpreted the Settlement Agreement. I do not agree.

To start, ordinarily, the operative date for a Qualifying Diagnosis is the date that the relevant diagnosing neurologist examined a Claimant. Here, that would be on April 23, 2025, when Dr. ██████ examined Mr. ██████. Doc. 389390. A Qualifying Diagnosis may, in limited circumstances, be retroactively dated. But—as FAQ 100 states—that sort of retroactive dating will be “strictly scrutinized” in the Claims review process. As I have previously explained, “part of that scrutiny involves ensuring that the earlier diagnosis was reliable, as the Settlement defines that term.”³

The need for such strict scrutiny is well illustrated by this Claim. Dr. ██████ relied on Mr. ██████'s 2014 test results, even though the Program had already determined that those records were potentially unreliable, discordant with Mr. ██████'s contemporaneous functional impairment, and insufficient to establish clear cognitive loss. The Settlement's rules leave the question whether a neurologist's backdating of a diagnosis withstands scrutiny largely to the Claims Administrator's discretion, informed by its independent medical advisors. Here, given that the Program had previously found the 2014 records partially unreliable, it was not error to decline to permit backdating a diagnosis by a decade to those same materials.

³ Special Master Ruling on Date of Diagnosis (Nov. 1, 2022), at 7, https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=diagnosis_date_sm.pdf; see also Settlement Implementation Opinion (August 20, 2019), https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=court_decision_backdated_diagnoses.pdf (approving FAQ 99, now FAQ 100).

Even if the 2014 reports were entirely reliable, the Claims Administrator correctly concluded that a Supplemental Claim may not be dated earlier than the original Claim. Section 6.8 of the Agreement states:

If, during the term of the Monetary Award Fund, a Retired NFL Football Player who has received a Monetary Award based on a certain Qualifying Diagnosis subsequently is diagnosed with a different Qualifying Diagnosis, the Retired NFL Football Player (or his Representative Claimant, if applicable) may be entitled to a Supplemental Monetary Award. If the Monetary Award level in the Monetary Award Grid (“Grid Level) for the *subsequent Qualifying Diagnosis* is greater than the Grid Level for the *earlier Qualifying Diagnosis*, the Retired NFL Football Player (or his Representative Claimant, if applicable) will be entitled to a payment that is equal to the Grid Level for the subsequent Qualifying Diagnosis, after application of all applicable Offsets, minus the Grid Level for the earlier Qualifying Diagnosis, after application of all applicable Offsets but prior to any deductions for the satisfaction of Liens.

The italicized language precludes the result Mr. [REDACTED] urges: that a Supplemental Award, although determined later in time, may be backdated to a date preceding the award it supplements. That reading makes little sense either linguistically or in light of the rationale for permitting successive Supplemental Awards for degenerative conditions.

Textually, a “subsequent[]” Qualifying Diagnosis must follow an “earlier Qualifying Diagnosis.” The Settlement does not provide merely that a Supplemental Claim may be filed after an earlier physician visit; it requires that the asserted Qualifying Diagnosis itself—both the medical determination and its operative date—postdate the earlier diagnosis for purposes of entitlement under the Monetary Award Grid. The timing of the diagnosis is thus not incidental but essential. Section 6.8 does not ask whether a disease may have existed earlier as a medical matter. It rather conditions on award on whether a Claimant has become entitled to additional compensation because his condition has developed into a new Diagnosis, not previously compensable.

This reading is confirmed by the Settlement’s structure and purpose. The parties understood that the covered disease states are degenerative and therefore permitted Claimants whose conditions worsen over time to seek additional compensation. That purpose is not served when a physician in 2025 retrospectively assigns a diagnosis to a point a decade earlier, particularly where physicians in 2014 did not reach that conclusion.

Mr. [REDACTED] argues that a previous decision of mine permitted a Supplemental Award that pre-dated an original one.⁴ That is not true. My 2023 decision did concern an asserted Alzheimer’s Supplemental Claim case. And there, as here, the primary diagnosis was Level 1.5 Neurocognitive Impairment, then dated to November 23, 2016. But the Supplemental diagnosis which I ultimately approved was dated to November 24 of that year—a day after the primary award.

⁴ Special Master Ruling on Alzheimer’s Disease Diagnosis (October 16, 2023), https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=alz_diagnosis_sm.pdf.

The Claims Administrator was therefore correct that Dr. ██████ could not date his Qualifying Diagnosis back to 2014. Indeed, it would violate the Agreement for a backdated award to precede the effective date of January 2017.⁵

Ordinarily, that would be sufficient to resolve this appeal. Indeed, it would be permissible to affirm the Claims Administrator's determination—which was correct—that Mr. ██████'s Claim asserted a diagnosis the Settlement could not accept. But doing so would produce needless inefficiency and delay. There is no real question but that Mr. ██████ now suffers from Alzheimer's Disease. I therefore asked the AAP on appeal if there was some date *after* Mr. ██████'s original diagnosis where the records would sufficiently support Dr. ██████'s determination. It advised (in relevant part) that:

Dr. ██████ ... notes that 'Dr. ██████ has consistently suspected Alzheimer's Disease since 11/18/16.' This statement is supported by the records and appears accurate.

From the medical records perspective, two potential dates of an initial AD diagnosis are identified: 1) 10/1/14 (earliest appearance) or 2) 11/18/16 (first diagnosis by the BAP/MAF physician involved in the player's care). Neither of these fulfill the parameters laid out in the instructions from the Special Master. Thus, although medical records indicate Alzheimer's disease was diagnosed prior to 1/7/17, the first appearance of the diagnosis in the medical records after 1/7/17 was identified in Dr. ██████'s note from June 7, 2017. Under Settlement Program requirements and the expanded scope of AD diagnosis under DSM-5-TR (2024), 6/7/2017 is best supported for the date of a supplemental diagnosis of Alzheimer's disease.

Doc. 425605.

On this record, simply denying of the appeal would invite the submission of a corrected Claim reflecting a 2025 diagnosis dated to as early as June 2017, consistent with the AAP's conclusions and the medical evidence already before the Claims Administrator. There's no good reason to require that extra effort for a Claimant who has substantively established his right to some relief.

I therefore deny the appeal, but only in part. I direct the Claims Administrator to issue a Monetary Award to Mr. ██████ consistent with a Qualifying Diagnosis of Alzheimer's Disease dated June 7, 2017—the earliest date the AAP advises is supported by the medical record and one that accords with the Settlement's plain text.⁶

⁵ See FAQ 79 "Is there a deadline to submit my Claim Package"; *see also* Settlement Agreement 8.3 (providing deadlines).

⁶ In prior decisions, I have concluded that neither the Claims Administrator nor the Special Masters can determine for themselves a diagnosis date *earlier* than the one asserted by the diagnosing physician. *See* Special Master Ruling on Date of Diagnosis (Nov. 20, 2024), https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=diagnosis_date_sm_2.pdf ("All of those circumstances require that the physician, rather than the Claims Administrator or the Special Master, determine the

CONCLUSION

Mr. [REDACTED] filed a Supplemental Claim for a Qualifying Diagnosis of Alzheimer's Disease based on a 2025 examination that his examining neurologist backdated to 2014. Both because this pre-dated the effective date and was untimely under the Settlement, and because a Supplemental Award cannot pre-date a primary one, the Claims Administrator correctly denied that particular Claim. However, Mr. [REDACTED] adequately supported his entitlement to a Qualifying Diagnosis of Alzheimer's Disease dated June 7, 2017. Pursuant to my charge to efficiently administer the Settlement, I direct the Claims Administrator to make an award consistent with that dated diagnosis.

Date: March 16, 2026



David A. Hoffman, Special Master

appropriate date. The appeals process permits review of the bases and outcomes of the physician's judgment, but not the assignment of a new, earlier, Diagnosis date."). That is not the same as concluding that the Claims Administrator or Special Master cannot, after rejecting a diagnosis date that was inappropriately set too early, cannot ask the AAP to determine if there is a later date that is supported by the relevant records.