

IN RE: NATIONAL FOOTBALL
LEAGUE PLAYERS' CONCUSSION
INJURY LITIGATION

Appeal 2026-19

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

at 4. Dr. ██████'s accompanying provider report detailed deterioration of Mr. ██████'s functional abilities since his last visit in 2022. *Id.*²

On September 18, 2024, Qualified MAF neurologist Dr. ██████ examined Mr. ██████ Doc. 371215. Clinical notes from that examination described Mr. ██████'s functional impairment. Dr. ██████ reported that Mr. ██████ needed help getting dressed in the morning, required reminders to shower and complete tasks, spent most of his time at home, continued to drive but avoided long distances, and no longer worked. *Id.* at 1. Dr. ██████ also reviewed a third-party affidavit submitted by Mr. ██████'s friend, ██████, on June 15, 2024. Doc. 387170 at 37. Mr. ██████ reiterated Mr. ██████'s ability to shop at the local store and the need for his wife to lay out his clothes and remind him to shower. *Id.*

The associated CDR Worksheet included scores of 1.0 for Community Affairs, 2.0 for Home & Hobbies, and 2.0 for Personal Care. Doc. 371567 at 2. To support his scoring, Dr. ██████ wrote that Mr. ██████'s wife was concerned about him driving, that he was unable to handle household emergencies, could only shop for items if he had a written list, forgot wedding and birthday anniversaries, did not dress appropriately though he groomed his hair well, and did "fairly well with activities of daily living." *Id.*

Dr. ██████ ultimately determined that Mr. ██████ qualified for a Level 2 Neurocognitive Impairment Diagnosis. Doc. 371215 at 4. On April 10, 2025, Mr. ██████ submitted his Supplemental Claim. Doc. 387169.

On May 8, 2025, the Claims Administrator, reaching out to Dr. ██████ relayed questions posed by the Appeals Advisory Panel (AAP):

[p]lease review the feedback and provide an addendum clarifying the discrepancies between the level of functioning for Community Affairs compared to Home/Hobbies and Personal Care, e.g., how is the Player cognitively able to drive and shop but not cognitively able to perform basic household chores or fasten buttons/belts?

Please remember to identify apparent discrepancies regarding the functional abilities/impairments and provide medical reasoning to resolve them. Please remember that a diagnosis of either level 1.5 neurocognitive impairment or level 2.0 neurocognitive impairment should correspond to clinical diagnoses of dementia rather than cognitive impairment (R41.89).

² For example, Mr. ██████ left his job because he could "no longer hide things," had issues with incontinence, continued to drive a car, was limited in his ability to shop independently, continued to exercise in his home gym, was unable to perform household tasks, and had difficulty selecting proper clothing and grooming himself. Doc. 379843 at 3–4. On the contemporaneous Employment History Form, Mr. ██████ reported mixed evidence of function. He was retired, no longer managed his finances, no longer engaged in social activities, stopped golfing and bowling with friends, required assistance to button his shirt and put on a belt, and needed reminders to shower. Doc. 387170 at 53–67. But, he continued to drive, with GPS assistance, was interviewed on a podcast in 2021 and 2022, and was able to pick up groceries at a local store. *Id.*

Doc. 391035.

On May 14, 2025, Dr. [REDACTED] responded:

[n]europsychological battery was reviewed as well as information that was provided by his wife. The patient has difficulty with learning and memory, overall processing speed, visual-perceptual processing as well as language processing. This does make it difficult for him to perform certain basic functions. He often has to make a list or write things down in order to get things done. His wife did have some concerns about his driving ability, specifically mentioning that she did not want him to be in a car with young children or driving unsupervised for long periods of time. His difficulty with some household chores is likely related to his problems with learning, memory as well as visual-perceptual processing. These levels of impairment are significant and consistent with what is documented in the neuropsychological report.

Doc. 391937. (cleaned up).

On August 5, 2025, the Claims Administrator denied Mr. [REDACTED]'s Supplemental Monetary Award Claim. Doc. 401966. Central to its conclusion was the view that Mr. [REDACTED] retained too much function to be eligible for a Level 2 Neurocognitive Impairment Award. *Id.*

On December 8, 2025, Mr. [REDACTED] timely appealed. Doc. 416731. Eight days later I remanded Mr. [REDACTED]'s Claim to the Claims Administrator for re-review. Doc. 417653.

On March 27, 2026, the Claims Administrator again denied Mr. [REDACTED]'s Supplemental Claim. Doc. 428643. After reviewing the file, the Claims Administrator reaffirmed that criterion (iii) remained unfulfilled. It wrote:

[i]n an addendum dated 5/14/2025, Dr. [REDACTED] indicated that the apparent discrepancy between the level of functioning for Community Affairs compared to Home/Hobbies and Personal Care activities was due to the impairments in learning/memory, processing speed, language processing, and visual-perceptual processing and that this was supported by the results of the neuropsychological evaluation (Doc ID 391937). However, AAPC review concluded that the CDR should be completed without reference to the neurocognitive test data, that capacity for Community Affairs would not be less dependent on cognitive abilities or more affected compared to the other relevant CDR categories, and that Dr. [REDACTED]'s CDR scores were clearly erroneous.

In accordance with the Special Master's 9/15/2025 decision, which indicates that deference should be given to the Diagnosing Physician's determinations unless they are clearly in error, the overall CDR score of 2 as purported by Dr. [REDACTED] is not due deference, since there are clear errors in the CDR score determinations. The

Player's level of functioning as a whole is not consistent with an overall CDR score of 2, since this is an individual who still drives, shops or picks up groceries from the local store, and participates in podcasts, which would indicate continued ability to function independently outside the home, and only needs reminders/prompts for self-care. Consequently, without deference given to Dr. [REDACTED]'s CDR score determinations, which is not due given clear error, the information would not support an overall CDR score of 2. Therefore criterion (iii) is not fulfilled for the Qualifying Diagnosis of Level 2 Neurocognitive Impairment.

Id. (breaks added).

On April 27, 2026, Mr. [REDACTED] timely appealed. Doc. 432172.

RESOLVING THIS APPEAL

To sufficiently establish a right to payment for Level 2 Neurocognitive Impairment, Mr. [REDACTED] needed to "exhibit functional impairment generally consistent with the criteria set forth in the National Alzheimer's Coordinating Center's Clinical Dementia Rating (CDR) scale Category 2.0 (Moderate) in the areas of Community Affairs, Home & Hobbies, and Personal Care."³ As I have previously explained:

[L]evel 2 Neurocognitive Impairment is defined by a profound loss of function. In Community Affairs, a score of 2 implies "[n]o pretense of independent function outside home"; in Home & Hobbies, "poorly maintained" and "very restricted interests, while the patient can perform only simple chores"; while in Personal Care the patient "[r]equires assistance in dressing, hygiene, [and] keeping of personal effects."⁴

The question on Appeal is whether Mr. [REDACTED] has offered evidence of clear and convincing error in the Claims Administrator's determination that he had not met this standard.

The first Denial of Mr. [REDACTED]'s Supplemental Claim focused on inconsistencies in his functional impairment. The Claims Administrator concluded that Mr. [REDACTED]'s continued ability to exercise, drive, shop and pick up groceries from the local store, only supported a score of 0.5 for Community Affairs. Doc. 401966 at 2. And it found that Home & Hobbies and Personal Care should both be scored at a 1.0 as Mr. [REDACTED] demonstrated "definite impairment and abandonment of hobbies" and "need[ed] reminders rather than assistance." *Id.* Before coming to this conclusion, the Claims Administrator and its advisory team sought to address the discrepancies present in the Player's reported functional ability. Doc. 391035. Specifically, it tried to reconcile Mr. [REDACTED]'s simultaneous need for assistance for Personal Care and his inability to maintain basic

³ Settlement Agreement, Exhibit A-1(2)(a)(iii).

⁴ In re: Appeal of SPID #100008392, 2026-9 (April 17, 2026), at https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=appeal_100008392_2026_9.pdf.

household tasks or work, versus his retained ability to drive, independently shop, and exercise at home. *Id.*

Responding, Dr. [REDACTED] explained that the apparent discrepancy between the level of functioning for Community Affairs and that in Home & Hobbies and Personal Care activities was due to Mr. [REDACTED]'s test-identified impairments in Learning & Memory, Processing Speed, Language Processing, and Visual-Perceptual Processing. Those deficits made it "difficult for him to perform certain basic functions." Doc. 391937.

The AAP member advised that this explanation was profoundly misguided. The reviewer pointed out that the CDR must be completed without reference to neurocognitive test data. Doc. 428643 at 2. And, because the "capacity for Community Affairs would not be less dependent on cognitive abilities or more or less affected compared to the other relevant CDR categories," Dr. [REDACTED]'s CDR scores were clearly erroneous. *Id.*

Mr. [REDACTED] argues that this explanation wrongly failed to defer to Dr. [REDACTED]'s judgment. But that is not how I read the record. Rather, although agreeing that Dr. [REDACTED] articulated his reasoning, the AAP (and consequently the Claims Administrator) thought that it was internally incoherent and rested on conflating neuropsychological test scores with functional impairment. As the ultimate Denial put it, Dr. [REDACTED]'s report contained "clear error."

Mr. [REDACTED]'s Appeal, though noting his physician's reasoning, doesn't adequately address the substantive problems that the AAP noted. Nor does it provide clear and convincing evidence of error in the process the Claims Administrator followed. I find as a matter of fact that Mr. [REDACTED] did not sufficiently establish functional impairment consistent with the Supplemental Level 2.0 Diagnosis he filed. Consequently, denying that Claim was appropriate.

CONCLUSION

Because Mr. [REDACTED] has not provided clear and convincing evidence that the Claims Administrator's decision was in error, I deny his Appeal.

Date: July 29, 2026



David A. Hoffman, Special Master