

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL
LEAGUE PLAYERS' CONCUSSION
INJURY LITIGATION

No. 2:12-MD-02323

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

[REDACTED], a Retired NFL Football Player and Class Member under the Amended Class Action Settlement Agreement, filed a Claim for benefits based on a Qualifying Diagnosis of Level 1.5 Neurocognitive Impairment. The Claims Administrator determined that he did not meet the Settlement's requirements for functional impairment and thus denied his Claim.

Because Mr. [REDACTED] has not shown by clear and convincing evidence that the Claims Administrator erred, I deny his Appeal.

CLAIM HISTORY

This is Mr. [REDACTED] first Claim. Doc. 399753. It relies on reports by Qualified-BAP neuropsychologist Dr. [REDACTED] and Qualified-BAP neurologist Dr. [REDACTED].

On September 27, 2023, Dr. [REDACTED] examined Mr. [REDACTED] through the Baseline Assessment Program (BAP). Doc. 290000. Of Mr. [REDACTED] function, Dr. [REDACTED] wrote:

he does not manage the family finances. He reported difficulties with engaging in activities. He reported having no hobbies and not going out. He stated he engages in pool exercises, but not other exercise. Mr. [REDACTED] refuses to go out for activities such as haircuts and requests his wife cuts his hair. Mr. [REDACTED] will wear the same clothing unless prompted.

Id. at 1.

During this visit, Dr. [REDACTED] administered a neuropsychological test battery, finding that Mr. [REDACTED] displayed Level 1.5 Impairment in Complex Attention & Processing Speed and Level 2 Impairment in Language. Doc. 289999 at 4. He also reviewed four third-party affidavits.

Doc. 290000 at 3. Ultimately, Dr. [REDACTED] concluded that “[b]ased on his test scores, Mr. [REDACTED] meets criteria for Level 1.5 cognitive impairment.” *Id.* at 4.

Dr. [REDACTED] examined Mr. [REDACTED] on November 8, 2024. Doc. 367683. In a terse report, Dr. [REDACTED] noted that Mr. [REDACTED] “stated he constantly has to write things down. His wife had to help with his finances since 2010 and his wife most[ly] does the driving.” *Id.* at 1. He also reported that Mr. [REDACTED] was currently working at a [REDACTED] restaurant and “has been having mood issues and overall these issues are causing disruption to his life.” *Id.* at 1-2.

Dr. [REDACTED] completed a Clinical Dementia Rating (CDR) Assessment Form. Doc. 366606. There, he indicated that Mr. [REDACTED] scored a 1.0 in the areas of Community Affairs, Home and Hobbies, and Personal Care. *Id.* at 4. But he did not provide any reasoning for this determination.

Overall, Dr. [REDACTED] agreed with Dr. [REDACTED] that Mr. [REDACTED] met the criteria for Level 1.5 Neurocognitive Impairment. Doc. 367683 at 3.

In April 2025, the Claims Administrator contacted Dr. [REDACTED]’s office to address his unsupported CDR scores. Doc. 388496. It asked Dr. [REDACTED] to review documentary evidence newly submitted by Mr. [REDACTED] and provide a new CDR analysis, this time, with his reasoning included. *Id.*

Dr. [REDACTED] ignored this request, so the Claims Administrator turned to Dr. [REDACTED]. Doc. 396633. “Although neuropsychologists are no longer required to complete a CDR analysis within the Program,” the Claims Administrator explained on June 20, 2025, “we have been unable to obtain a complete CDR analysis from the BAP neurologist. Can you please review your prior report and newly provided documentary evidence . . . and provide a complete CDR analysis based on information you obtained at the time of your evaluation?” *Id.*

After a nudge from the Claims Administrator, Dr. [REDACTED] submitted an addendum to his report on July 9, 2025. Doc. 398592. There, he took each CDR category in turn, noting first that, “[i]n terms of community affairs, Mr. [REDACTED] has had significant problems at work due to cognitive issues. He has been terminated from three jobs as a result of these cognitive issues.” *Id.* at 1. But, Dr. [REDACTED] caveated, “I did not assess his participation in shopping or driving, so I cannot comment on those matters. He was driven by his wife to the evaluation.” *Id.* at 1-2.

Next, “in terms of home and hobbies,” Dr. [REDACTED] noted that Mr. [REDACTED] “reported problems with losing objects, such as his wallet. He reported having no hobbies and does not go out. He sometimes exercises in the pool.” *Id.* at 2.

Finally, “[i]n terms of self-care, he will wear the same clothing unless prompted by his wife. He now requests his wife cut his hair, which is a change.” *Id.*

Thus, overall, Dr. [REDACTED] concluded that:

Mr. [REDACTED] has significant functional impairments consistent with a CDR of 1. In all three domains (community affairs, home and hobbies, self-care), I rate his CDR level as 1. Though there is an anger element that likely contributes to his increased isolation, the primary cause of the changes in these areas is cognitive. Forgetfulness was noted by six people who provided sworn statements, as well as Mr. [REDACTED] and his wife.

Id.

On the CDR Worksheet that he submitted, however, Dr. [REDACTED] analysis was not so definitive. Doc. 398593. Instead, there he acknowledged that he did not know many details about Mr. [REDACTED] functional ability, including whether he:

- still drove a car. *Id.* at 1.
- was able to shop independently. *Id.*
- could carry out activities outside the home. *Id.*
- attended social functions outside the home. *Id.*
- had experienced changes in his ability to do household chores. *Id.* at 2.

Dr. [REDACTED] also left large portions of the CDR Worksheet blank. He did not answer any questions related to Mr. [REDACTED] everyday activities and declined to provide any evaluations in the “Personal Care” section of the worksheet, writing instead that “I did not assess the above items. I was told he will wear the same clothes unless prompted to change and now has his wife cut his hair.” *Id.* at 2-3.

Moreover, Dr. [REDACTED] did not address where there have been any changes in Mr. [REDACTED] ability to perform hobbies. Instead, when asked, Dr. [REDACTED] replied that Mr. [REDACTED] “does almost nothing,” an answer which does not speak to any *changes* in Mr. [REDACTED] behavior. *Id.* at 2.

On July 17, 2025, Mr. [REDACTED] submitted a Claim for benefits based on a Qualifying Diagnosis of Level 1.5 Neurocognitive Impairment. Doc. 399753.

On August 27, 2025, the Claims Administrator contacted Mr. [REDACTED] with additional questions about his functional impairment. Doc. 404561. The next day, Mr. [REDACTED] responded. Doc. 404769. “For shopping activities,” he clarified, “I do none [,] my wife has been taking care of the shopping for more than 5 years.” *Id.* at 1.

Regarding personal care, Mr. [REDACTED] wrote that he requires help from his wife, who “has to continuously remind me to brush my teeth, shower and helps with cutting my hair because I do not like to go to barber shop. Also she reminds me when to take my vitamins.” *Id.*

Mr. [REDACTED] also clarified that he helps with some chores, including “taking out the trash, sweeping and washing dishes.” *Id.* Finally, he indicated that he does not “have hobbies or like to be out of the house.” *Id.*

On October 14, 2025, the Claims Administrator denied Mr. [REDACTED] Claim. Doc. 409793. The Claims Administrator based the Denial on Mr. [REDACTED] failure to satisfy criterion (iii), evidence of functional impairment generally consistent with scores of 1.0 in CDR categories of Community Affairs, Home and Hobbies, and Personal Care. *Id.*

In making this determination, the Claims Administrator adopted the conclusions of an Appeals Advisory Panel (AAP) Member. *Id.* at 1. The Notice of Denial quotes the Member’s report at length. *Id.* at 2-3.

As described in the Notice, the AAP first advised that, based on all the evidence of functional impairment submitted with Mr. [REDACTED] Claim (including Drs. [REDACTED] and [REDACTED] reports, multiple third-party affidavits, and an Employment History and Social Activity Form completed by Mr. [REDACTED] wife):

a score of 0.5 would be supported for Community Affairs because the Player was able to work, drive, exercise at the pool, and participate with the [REDACTED] and play football with kids, even with problems/difficulties, which would indicate continued ability to function independently in the community.

Id. at 2.

The AAP next added that a score of 1.0 would be supported in the category of Personal Care, noting that “[w]hile the addendum by Dr. [REDACTED] indicated a lack of knowledge regarding Personal Care activities, other sources of information . . . indicated the Player required prompting to change clothes which would support a score of 1 for this category.” *Id.*

Finally, the AAP turned to Home and Hobbies. “Initially,” the AAP Member wrote, “there was not much information about Home/Hobby activities, but the Player was noted to not have hobbies and have difficulty engaging in activities in general, which would presumably apply to household chores, and so the information initially appeared to be consistent with the score of 1 for Home/Hobbies.” *Id.*

“However,” the AAP then explained that:

the Player was then asked to clarify his functioning further . . . and reported that he did not shop, his wife did all the shopping for more than five years, he needed reminders to brush teeth, shower, and take vitamins, help with cutting his hair (but this was because he did not like to go to the barber shop rather than due to cognitive decline), continued to participate (help) in some chores such as taking out trash, sweeping, and washing dishes, and did not have hobbies.

The Player's clarifications . . . seemed to indicate a higher level of functioning for Home/Hobbies since the Player was still able to participate in household chores (taking out the trash, sweeping, and washing dishes).

Id. at 2 (breaks added).

The AAP advised that Mr. [REDACTED] responses to the Claims Administrator's questions about his functional impairment bore on the analysis because the medical records presented with Mr. [REDACTED] Claim were incomplete. *Id.*¹ For one, "Dr. [REDACTED] did not provide documentation or articulated explanation to support the CDR score determinations." *Id.* Furthermore, Dr. [REDACTED] analysis of Mr. [REDACTED] functional impairment "did not include enough information regarding the Player's Home/Hobbies to be considered a fully-articulated diagnosis that deference can be applied to." *Id.* at 2-3. Indeed, "[t]he clarification about the Player's continued participation in chores and lack of change in hobbies revealed facts that were not documented by either provider." *Id.* at 3.

Thus, overall:

there is no report of impairment in or abandoning household chores (despite multiple opportunities to provide that information via the evaluations and the request for information) and the Player instead reported he continues to participate in chores. Also, while he is reported to not engage in hobbies, this was not reported to be a change for him or that he has abandoned more complicated hobbies or interests.

So, overall, there is no clear report of impairment for either household chores or hobbies. Consequently, a score of 0 would now be supported for Home/Hobbies based on the available information and an overall CDR score of 0.5 would now be supported.

Therefore criterion (iii) is no longer fulfilled for Level 1.5 Neurocognitive Impairment based on the currently available information.

Id. (breaks added).

Mr. [REDACTED] timely appealed. Doc. 414209.

¹ Here, the AAP cited my recent Opinion about the role of late-arriving evidence. *See* Special Master Ruling on Late-Arriving Evidence and Deference, at 5 (Sep. 25, 2025), https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=late_evidence_deference_sm_2.pdf (finding that when the medical records presented with the Claim are incomplete, later-arriving evidence "can and should play a determinative role").

RESOLVING THIS APPEAL

To prevail on appeal, Mr. [REDACTED] must show—by clear and convincing evidence—that the Claims Administrator erred in adopting the AAP Member’s conclusions and denying his Claim. He has not come close to meeting that burden.

The basic question is whether Mr. [REDACTED] satisfied criterion (iii) of a Level 1.5 Diagnosis obtained through the BAP, which requires CDR scores of 1.0 in the areas of Community Affairs, Home and Hobbies, and Personal Care.² Generally, if the Diagnosing Physician provides articulated reasoning in rendering those scores, the Claims Administrator will defer to that judgment. But, of course, “the degree of (and justification for) deference will wax with the carefulness of the underlying reasoning. cursory reports will fairly provoke more skepticism than thoughtful assessments.”³

Here, while two doctors signed off on scores of 1.0 in the three relevant CDR categories, neither provided sufficient reasoning for their conclusions to warrant deference. Dr. [REDACTED], for one, gave *no* reasoning for his determinations—even after the Claims Administrator contacted him with a specific request for elaboration.

Dr. [REDACTED], meanwhile, provided a plainly incomplete analysis. He left much of the CDR Worksheet blank. Of the questions to which he did reply, he indicated that he “did not know” for nearly half. His report did not address any changes in Mr. [REDACTED] ability to engage in either household chores or hobbies and thus neglected the entire CDR category of Home and Hobbies.

Between Dr. [REDACTED] silence and Dr. [REDACTED] truncated analysis, the medical record was incomplete, and the Claims Administrator acted properly when it solicited additional information from Mr. [REDACTED] and adopted the well-reasoned conclusion of the AAP Member.

On appeal, Mr. [REDACTED] takes aim at the AAP’s evaluation of his CDR score in the category of Community Affairs, insisting that it incorrectly assumed that he remains involved in the [REDACTED]. Acknowledging that in one place his wife indicated ongoing involvement with the [REDACTED], Mr. [REDACTED] contends that his wife elsewhere suggested that his involvement with the organization ended in 2018. Therefore, according to Mr. [REDACTED], “[a] reasonable understanding . . . would be that the last active date [he] participated in any [REDACTED] activities was 2018.” Doc. 413836 at 3.

But even putting aside that this available alternate inference hardly rises to clear and convincing evidence of error, Mr. [REDACTED] overstates the significance of his involvement with the [REDACTED] in the AAP’s analysis.⁴ The AAP considered not just Mr. [REDACTED]

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

³ Special Master Ruling on Stroke Definition, at 9 (Apr. 25, 2022), https://www.nflconcussionsettlement.com/ViewDoc.aspx?dp=stroke_SM_2.pdf.

⁴ And other evidence cuts against the reasonableness of this inference besides—for example, in the same section of the Employment History and Social Activity Form where Mrs. [REDACTED] neglected to put an end-date for Mr. [REDACTED] involvement with the [REDACTED], she remembered to include an end-date for other

██████ involvement with the ██████ when advising that the records supported only a score of 0.5 in Community Affairs but also his ability to work, drive, and exercise. And, contrary to Mr. ██████ bare assertion that these activities “would not disqualify a medical finding of a Level 1.5 Impairment,” the AAP Member appropriately considered them when determining whether the evidence supports a finding that Mr. ██████ is “unable to function independently” in work, shopping, and socializing.⁵ *Id.* at 4.

Moreover, Mr. ██████ fails to address the AAP’s estimate that his retained function implied a score of 0 in Home and Hobbies. Doc. 409793 at 3; *see* Doc. 313836 at 2 (averring, inaccurately, that the AAP found that Mr. ██████ scored a 1.0 in Home and Hobbies).⁶

Overall, the Claims Administrator provided Mr. ██████ and his clinicians multiple opportunities to clarify their positions and support their conclusions. It ultimately made a determination supported by the factual record and faithful to the standards articulated by the Settlement Agreement. I can identify no error in that process or its outcome, and thus, I deny the Appeal.

CONCLUSION

Because Mr. ██████ has not offered clear and convincing evidence that the Claims Administrator erred, I deny his Appeal.

Date: February 18, 2026



David A. Hoffman, Special Master

activities. Thus, in that context, it is most reasonable to assume that Mr. ██████ remained active with the ██████ as of 2023. Doc. 369301 at 5.

⁵ Knight Alzheimer Disease Research Center, *Clinical Dementia Rating Worksheet*, WASHINGTON UNIVERSITY SCHOOL OF MEDICINE IN ST. LOUIS, <https://knightadrc.wustl.edu/app/uploads/2021/06/CDR-Table.pdf>.

⁶ Mr. ██████ also asks that I remand his Claim, so that the Claims Administrator can review a new, third-party affidavit submitted by his wife. This affidavit was generated for appeal and arrives more than two years after Mr. ██████ neurology evaluation. Moreover, under the Settlement, an affidavit by a Player’s family member cannot corroborate a functional impairment. Settlement Agreement, Exhibit A-1 1(a)(iii). Mr. ██████ remains free to seek another evaluation and submit a new Claim with appropriate supporting evidence.