

**SPECIAL MASTERS' RULE 27 DECISION ON
REPORT OF ADVERSE FINDING REGARDING DR. MIRCEA MORARIU**

I. INTRODUCTION.

Pursuant to Section 10.3 of the Settlement Agreement and Rule 7(b) of the Rules Governing Audit of Claims (the "Audit Rules"), the Claims Administrator audited 54 Monetary Award Claims supported by a Pre-Effective Date Qualifying Diagnosis from Dr. Mircea Morariu, Sr. ("Dr. Morariu"). The Claims Administrator concluded that Dr. Morariu misrepresented, omitted, or concealed material facts in connection with Monetary Award Claims.

The Claims Administrator referred 51 Monetary Award Claims to the Special Masters for review and findings pursuant to Section 10.3(i) of the Settlement Agreement.¹ Fifty Settlement Class Members withdrew their claims following the Claims Administrator's referral to the Special Masters under Section 10.3(i) of the Settlement Agreement, leaving one remaining. Neither party has submitted a reply memorandum to the Claims Administrator's referral. The only remaining claim is from pro se Retired NFL Football Player (SPID 100014518), who did not submit a memorandum in response to the Claims Administrator's referral pursuant to Rule 20 of the Audit Rules. The Special Masters have reviewed the full Record of the Audit Proceeding and issue these findings.

II. REVIEW OF FACTS.

Dr. Morariu is a board-certified neurologist in Delray Beach, FL. He applied but was not approved as either a Qualified MAF Physician or a Qualified BAP Provider. Dr. Morariu signed Diagnosing Physician Certification Forms (DPCs) for 54 Monetary Award Claim Packages that had been submitted to the Settlement Program at the time the Claims Administrator issued its Audit Report. 51 claims are from players who are, or were, represented by Two claims are from players who are, or were, represented by One claim is from a player who is pro se. Of these, 19 are Level 1.5 Neurocognitive Impairment diagnoses, 33 are Level 2 Neurocognitive Impairment diagnoses, and the remaining two are Alzheimer's disease diagnoses.

The Claims Administrator began auditing Dr. Morariu after an AAP Member expressed serious concerns about Dr. Morariu's diagnostic methodologies. The AAP Member had assessed 10 diagnoses by Dr. Morariu, finding reasons to suspect the veracity of many, if not all, of his results because of a "systematic pattern of incomplete and contradictory documentation suggestive of misrepresentation by the diagnosing physician." The Claims Administrator observed that Dr. Morariu's diagnoses were improper and

¹ Of the 54 Monetary Award Claims supported by a Pre-Effective Date Qualifying Diagnosis from Dr. Morariu, three claims were not referred to the Special Masters because: (1) the Claims Administrator issued Notices of Denial of Monetary Award Claim to two Settlement Class Members, who did not Appeal the denial result, and their deadlines to Appeal passed; and (2) with input from the AAP, the Claims Administrator determined that the Qualifying Diagnosis of Alzheimer's Disease for one player was different from the rest of the claims involving Dr. Morariu, in that the player actually had the condition diagnosed. The Claims Administrator removed the claim from Audit and the Program paid the claim.

suggested a serious bias in favor of finding Qualifying Diagnoses, as well as an attempt to manipulate the Program through misrepresentations and concealment of material facts.

A. AAP Member Review and Findings.

For any diagnoses made before the Effective Date, the diagnosis must be generally consistent with the diagnostic criteria set forth in the Settlement Agreement. The AAP Member who reviewed 10 claims relying on diagnoses from Dr. Morariu informed the Claims Administrator that not only were the claims not generally consistent with the Settlement Agreement diagnostic criteria but also that there were reasons to suspect the veracity of many, if not all, of his results because of a "systematic pattern of incomplete and contradictory documentation suggestive of misrepresentation by the diagnosing physician."

Specifically, the AAP Consultant observed that:

1. The clinical histories were remarkably similar in all 10 cases;
2. The players had scored in the normal range on cognitive testing. No neuropsychological testing was included in the reports, even though there was no indication that impairments were sufficient to preclude such testing;
3. Dr. Morariu had ordered, conducted, and interpreted physiologic testing that was irrelevant to the evaluation;
4. There was no assessment by Dr. Morariu of daily function generally consistent with the CDR scoring of daily function in Home & Hobbies, Community Affairs, or Personal Care;
5. There was little or no consideration of employment history in the diagnostic assignments and documentation of functional decline was limited or absent; and
6. Dr. Morariu assigned clinical diagnoses of "mild cognitive impairment" and "minimal cognitive impairment," in direct contradiction with the requirement of moderate to severe or severe decline from a previous level of performance required by Ex. 1 to the Settlement Agreement for Level 1.5 or Level 2 Qualifying Diagnoses.

B. Claims Administrator's Review and Findings.

After reviewing all 54 Monetary Award Claim Packages, specifically noting the issues that the AAP Member observed as problematic, the Claims Administrator found that there was a reasonable basis to conclude that Dr. Morariu misrepresented, omitted, or concealed material facts in order to make Qualifying Diagnoses to submit to the Program. They based this finding on the following factors viewed as a whole:

1. Dr. Morariu assigned diagnoses to 35 players who scored in the range suggesting normal function on the MMSE (19 Level 1.5, 15 Level 2, and one Alzheimer's Disease);
2. Dr. Morariu primarily relied on five tests in his evaluations, but only one of these (a brain MRI) is within the recommendations for assessment of dementia. The other four (the BAEP, EEG, TCD, and Carotid Duplex or Ultrasound Carotid Angiography) are "irrelevant" physiological tests. Furthermore, Dr. Morariu ordered these same tests regardless of whether the player was 26 years old or 67. Finally, despite arguing that these tests were relevant, Dr. Morariu made Qualifying Diagnoses regardless of whether these tests showed normal or abnormal values;
3. Dr. Morariu gave Level 2 diagnoses to 24 players despite their telling him they were still employed in some capacity at the time. He recorded a CDR score of 2 in Community Affairs for 12 of these 24 Level 2 players; 10 players did not receive specific scores for each CDR level but got an overall score of 2 from Dr. Morariu; the other two were given scores of 1 for each CDR level;
4. His medical records for 30 players are internally inconsistent between the Diagnoses and Assessment sections, noting that the players have mild/minimal cognitive impairment in the Diagnoses section but later listing a different diagnosis in the Assessment sections;
5. Dr. Morariu made a Qualifying Diagnosis in a DPC he signed for 17 players even though his medical reports for the players show only "mild cognitive impairment" and/or "minimal cognitive impairment," which is not dementia; and
6. Further, Dr. Morariu was not truthful in statements to the Claims Administrator, in particular when he stated that he had seen just "over 20" players, when he had examined 54 players. Dr. Morariu provided Qualifying Diagnoses to 100% of the players he saw, and 41 players traveled more than 150 miles with 12 players traveling more than 1,000 miles to be examined by him.

III. CONCLUSION AND REMEDIES.

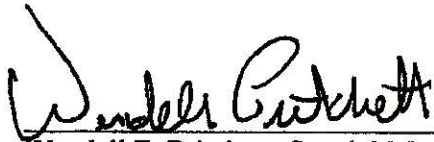
Upon review, the Special Masters find that the claims relying on Dr. Morariu's diagnoses may be based on misrepresentations, omissions, and/or concealment of material facts. Accordingly, and pursuant to Section 10.3 of the Settlement Agreement and Audit Rule 27, the Special Masters issue these remedies:

- A. Disqualification of Dr. Morariu:** Dr. Morariu is disqualified from participation in the Program. Any Monetary Award Claim that relies on evaluation performed by, or a diagnosis made by Dr. Morariu is disallowed, and no future claims may be submitted in reliance on his evaluations or opinions.

B. Disposition of Monetary Award Claims Relying on Dr. Morariu's

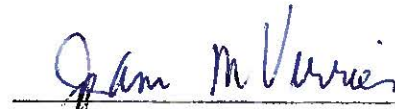
Evaluations: Because only one Monetary Award Claim remains that relies on evaluation, testing, or opinions performed or rendered by Dr. Morariu, and because that player is not eligible to participate in the BAP, that Settlement Class Member will be referred to the AAP for evaluation. If the original Qualifying Diagnosis reached by Dr. Morariu is confirmed by the AAP, the diagnosis date may be, if medically appropriate, dated retroactively to match the date of the original Qualifying Diagnosis asserted in the Monetary Award Claim that relied on Dr. Morariu's evaluation.

This Rule 27 decision is to be published on the Settlement Program website.



Wendell E. Pritchett, Special Master

Date: 10/28/19



Jo-Arin M. Verrier, Special Master

Date: 10/28/19