

**FINDINGS AND REMEDIES OF THE SPECIAL MASTERS
PURSUANT TO SECTION 10.3(i) REGARDING 12 MONETARY AWARD CLAIMS**

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 12 Monetary Award Claims supported by diagnoses from Dr. Darren Fuerst. This Audit included the review of relevant records, interviews, and consultation with an Appeals Advisory Panel Member. The Claims Administrator concluded that Dr. Fuerst misrepresented, omitted, or concealed material facts in connection with the 12 Monetary Award Claim Packages.

Accordingly, the Claims Administrator referred these 12 Monetary Award Claims to the Special Masters for review and findings pursuant to Section 10.3(i) of the settlement Agreement. Seven Settlement Class Members withdrew their claims following the Claims Administrator’s referral to the Special Masters under Section 10.3 of the Settlement Agreement, leaving five claims remaining. Since making the referral, the Claims Administrator identified one additional claim relying on an evaluation by Dr. Fuerst, and this claim will be subject to the same treatment as the claims addressed in the Audit Report. The Special Masters reviewed the Record of the Audit Proceeding and issue these findings and remedies.

II. REVIEW OF FACTS.

Dr. Fuerst signed Diagnosing Physician Certification Forms for 12 Monetary Award Claim Packages that had been submitted to the Settlement Program at the time the Claims Administrator issued its Audit Report. Of these, 9 are Level 1.5 Neurocognitive Impairment diagnoses and the remaining 3 are Level 2 Neurocognitive Impairment diagnoses.

The Claims Administrator began auditing Dr. Fuerst after investigating an anonymous tip regarding a law firm that allegedly solicited “guaranteed diagnoses” from providers and promised them to players. The Claims Administrator did not find evidence that Dr. Fuerst was guaranteeing diagnoses to law firms; however, they observed that Dr. Fuerst omitted data on important validity measures.

A. AAP Member Review and Findings.

The Claims Administrator asked an AAP Member to review six claims supported by neuropsychological evaluations from Dr. Fuerst. The reviewing AAP Member concluded that all six evaluations contained “serious flaws in terms of validity, selective reporting/omission of test scores, inconsistencies, and proposing diagnoses of cognitive impairment that are not supported by the test data.” The AAP Consultant concluded that, because of the multiple omissions and misrepresentations in the six reports reviewed, the neuropsychological testing does not support any of the diagnoses that Dr. Fuerst suggested, noting in part that he was selective in his omission of raw test scores for validity measures, listing some test scores for certain players while omitting them for others.

B. Claims Administrator's Review and Findings.

After reviewing all 12 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. Fuerst misrepresented, omitted, or concealed material facts in such a way that rendered all reports prepared by Dr. Fuerst unreliable for the purposes of diagnosing a player.

They based this finding in part on the fact that Dr. Fuerst omitted scores for the MSVT and embedded validity measures and misinterpreted failing validity testing scores as indicating acceptable effort and motivation by the player.

III. CONCLUSION AND REMEDIES.

Under Section 10.3(i) of the Settlement Agreement, the Special Masters' review and findings may include the following relief, without limitation: (a) denial of the claim in the event of fraud; (b) additional audits of claims from the same law firm or physician (if applicable), including those already paid; (c) referral of the attorney or physician (if applicable) to the appropriate disciplinary boards; (d) referral to federal authorities; (e) disqualification of the attorney, physician and/or Settlement Class Member from further participation in the Class Action Settlement; and/or (f) if a law firm is found by the Claims Administrator to have submitted more than one fraudulent submission on behalf of Settlement Class Members, claim submissions by that law firm will no longer be accepted, and attorneys' fees paid to the firm by the Settlement Class Member will be forfeited and paid to the Settlement Trust for transfer by the Trustee into the Monetary Award Fund.

Upon review, the Special Masters find that the claims relying on Dr. Fuerst's diagnoses may be based on misrepresentations, omissions, and/or concealment of material facts given his repeated omission of raw scores, particularly those for the MSVT, despite having administered that test.

Accordingly, and pursuant to Section 10.3 of the Settlement Agreement, the Special Masters order these remedies:

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

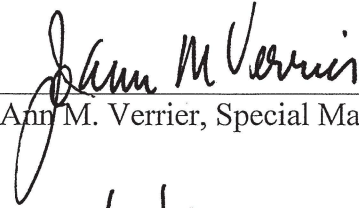
B. Disposition of Monetary Award Claims Relying on Dr. Fuerst's Evaluations: The Claims Administrator will deny without prejudice any Monetary Award Claim that relies on evaluation, testing, or opinions performed or rendered by Dr. Fuerst. Those Settlement Class Members whose Monetary Award Claims rely on diagnosis from Dr. Fuerst may seek a new evaluation through the Baseline Assessment Program, if they are eligible to participate in the BAP, or from a

Qualified MAF Physician. If the original Qualifying Diagnosis reached by Dr. Fuerst is confirmed by the Qualified MAF Physician or the BAP Provider, the diagnosis date may be dated retroactively to match the date of the original Qualifying Diagnosis asserted in the Monetary Award Claim that relied on Dr. Fuerst's evaluation.



Wendell E. Pritchett, Special Master

Date: 3/11/19



Jo-Ann M. Verrier, Special Master

Date: 3/12/19