



State of New Jersey

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Governor

DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS
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October 10, 2025

JOHN D. MEGARIOTIS
Acting Director

Sent via email and regular mail

Law Office of Michael K. Kalmus
Michael Kalmus, Esq.
[REDACTED]
[REDACTED]

RE: Kathryn Ratner
TPAF [REDACTED]
OAL DKT. NO. TYP 01644-24

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Dear Mr. Kalmus:

At its meeting of September 4, 2025, the Board of Trustees ("Board") of the Teachers' Pension and Annuity Fund ("TPAF") considered the July 29, 2025 Initial Decision ("ID") of the Honorable Ernest M. Bongiovanni, ALJ, with exhibits; the exceptions filed by Kseniia I. Michkodan, dated August 11, 2025, your reply to exceptions, dated August 15, 2025, and your statements to the Board and those of DAG Matthew Melton. The Board noted the exceptions and the reply thereto. Thereafter, the Board voted to reject the ALJ's decision recommending Accidental Disability retirement benefits ("AD"), thereby reaffirming the Board's original determination. For the reasons set forth below, the Board rejected the ALJ's finding that the "the November 2, 2022 [incident] was at the very least an essential significant or substantial contributing cause of petitioner's disability" and as a result Kathryn Ratner ("Ratner") is entitled to AD. (ID at 22). The Board herein expands the ALJ's Findings of Fact and Conclusions of Law and issues this Final Administrative Determination.¹

¹ The Board requested and was granted an extension of time to issue its final administrative determination

PROCEDURAL HISTORY AND FACTUAL FINDINGS

The Board corrects and changes the reference from “Simpson” to “Ratner” (ID at 3) and corrects the reference from “Dr. Mark’s” to “Dr. Marx’s” (ID at 12). The Board also corrects the ALJ’s reference to pain on the right side of Ratner’s face to the left side. (1T15:9-12).

On December 8, 2022, Ratner applied for an AD retirement benefit based upon an incident that occurred on November 2, 2022. Ratner began working as a Physical Education and Health Teacher in September 2007 as a result of her employment with Hillside Board of Education (“Hillside”). (ID at 3). In addition to her teaching duties, Ratner also coached, and was responsible for attending hall and lunch duty and instructing students in various sports techniques. (ID at 3).

In 2013, Ratner was diagnosed by a [REDACTED] with [REDACTED] which [REDACTED].” (ID at 3; 1T15:9-12). She initially treated with [REDACTED], but in 2014, Ratner [REDACTED]. (ID at 3-4). Seven months later, Ratner’s [REDACTED]. (ID at 4). She experienced shocking [REDACTED] that lasted from a second to a few seconds about 2-3 times a week. *Ibid.* Dr. Charles Asta (“Dr. Asta”)², explained that [REDACTED]. [REDACTED]—most of which Ratner is currently experiencing. (1T38:13-23, R-5, ID at 3-5). The [REDACTED] could have resulted in exacerbation of [REDACTED]. (1T105:6-106:24).

Following the [REDACTED], Ratner’s treatment consisted of [REDACTED]. (ID at 4). Despite treatment, the record reflected that she continued to

² Dr. Asta is Ratner’s treating physician and testified on her behalf.

[REDACTED]: "Pt presents with [REDACTED],"
(1T35:21-36:2, R-6); "...she understands that [REDACTED] that has
failed to respond to medical management," (1T36:15-20, R-7); "Pt has worked with her [REDACTED]
to [REDACTED]," (1T37:4-10, R-8); "For the past 2
months patient has had [REDACTED] as well as [REDACTED]
[REDACTED]," (T38:6-12; R-14).

Furthermore, Dr. Asta's own records showed that various medical regimens, such as [REDACTED] [REDACTED]. (1T116:17-117:5, R-15; 1T117:18-118:4, R-16; 1T118:20-25, R-17; 1T119:19-120:5, R-18; 1T120:24-122:3, R-19; 1T122:14-123:4, R-20). Dr. Asta's records, starting from 2017, stated that Ratner was [REDACTED] [REDACTED] [REDACTED] [REDACTED]." (1T108:14-110:8, R-9). He also noted Ratner was experiencing constant [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] without adequate benefit." (1T110:9-112:10, R-10; 1T112:16-113:5, R-11; 1T115:17-116:3, R-14). The frequency of Ratner's "progressive" "[REDACTED]" started to "creep up" prior to the 2022 incident, leading Ratner to the "susp[icion] that the [REDACTED] is not under full control," (1T90:13-22, 1T124:17-125:15, R-22).

Dr. Asta's records also revealed that Ratner's "condition [was] not under full control" and almost a year before the November 2022 incident she was "not been able to [REDACTED] [REDACTED]." (ID at 8; 1T95:24-96:19; P-1; 1T142:4-15, R-21; 1T125:3-

15, R-22. On September 19, 2022, Dr. Phillip Stieg, M.D. ("Dr. Stieg"), noted that Ratner's

"[REDACTED]" (1T131:13-133:11, R-46).

On November 2, 2022, she was teaching her gym students how to throw a football. (ID at 4). As she reached down to pick up a football, another student "[REDACTED]"

"[REDACTED]". Ibid. "[REDACTED]". Ibid.

Following the accident, she was transported via ambulance to Hackensack Medical Center. Ibid.

While in the emergency room, throughout the visit, Ratner reported experiencing only -

"[REDACTED]" and had "no other complaints."

(1T21:11-20, 1T67:14-69:16, R-47). In addition, the "[REDACTED]" that was administered during

the visit did not show any significant abnormalities. (2T16:21-24, R-47). Ratner was then

referred via Worker's Compensation to "[REDACTED]", Dr. Steven Lomazow, M.D. ("Dr.

Lomazow"). (ID at 5). After monitoring Ratner over the course of few months, Dr. Lomazow

concluded that Ratner's condition "clearly predated the work-related injury," and "this is the normal

progression of a bad problem." (ID at 17; 1T131:1-12; R-45). Since the November 2022 incident,

her medical treatment included "[REDACTED]". Ibid. Ratner did not return to teaching

or coaching. (ID at 4).

Prior to the November 2022 incident, in October 2018, Ratner was "[REDACTED]"

"[REDACTED]" while teaching, for which she "[REDACTED]". (ID at 5). Ratner also suffered

from "[REDACTED]" for two years before the November 2022 incident, where the "[REDACTED]"

"[REDACTED]". Ibid. She was treated by a "[REDACTED]"

"[REDACTED]" Szabo ("[REDACTED]" Szabo"). Ibid.

At its monthly meeting on December 7, 2023, the Board denied Ratner's application for AD. (J-4). The Board found that Ratner was totally and permanently disabled from the

performance of duty, that the November 2, 2022 incident (2022 incident) was identifiable as to time and place, undesigned and unexpected, occurred during and as a result of the performance of Ratner's regular or assigned duties and was not the result of her willful negligence. Ibid. However, the Board found that Ratner's disability is not a direct result of the November 2022 incident. Ibid. Rather, Ratner's disability is associated with a symptomatic, pre-existing condition. Ibid. Thereafter at its February 1, 2024, meeting the Board transmitted this matter to the OAL. (J-6).

On July 29, 2025, The ALJ issued an Initial Decision finding that the testimony of Dr. Asta credibly established that the November 2022 incident was "the essential significant or substantial contributing cause' of Petitioner's disability." (ID at 21). As a result, the ALJ found that Ratner met her burden of establishing she is eligible for AD. (ID at 22).

CONCLUSIONS OF LAW

The Board rejected the ALJ's conclusion that Ratner established that her disability was the direct result of the November 2022 incident. (ID at 21-22). A TPAF member seeking AD must prove:

1. that [s]he is permanently and totally disabled;
2. as a direct result of a traumatic event that is
 - a. identifiable as to time and place,
 - b. undesigned and unexpected, and
 - c. caused by a circumstance external to the member (not the result of pre-existing disease that is aggravated or accelerated by the work);
3. that the traumatic event occurred during and as a result of the member's regular or assigned duties;
4. that the disability was not the result of the member's willful negligence; and

5. that the member is mentally or physically incapacitated from performing his usual or any other duty.

[Richardson v. Bd. of Trs., Police & Firemen's Ret. Sys., 192 N.J. 189, 212-13 (2007).]

In other words, the member must prove “he or she suffered a total and permanently disabling injury ‘as a direct result of an identifiable, unanticipated mishap.’” Brooks v. Bd. of Trs., Pub. Emps. Ret. Sys., 425 N.J. Super. 277, 284-85 (App. Div. 2012) (quoting Richardson, 192 N.J. at 213).

To satisfy the “direct result” requirement, a traumatic event must constitute “the essential significant or substantial contributing cause” of the applicant’s disability and not be the result of pre-existing disease alone or in combination with work effort. Gerba v. Bd. of Trs., Pub. Emps.’ Ret. Sys., 83 N.J. 174, 185 (1980); Korelnia v. Bd. of Trs., Pub. Emps.’ Ret. Sys., 83 N.J. 163, 170 (1980). The burden of proof lies with Ratner to prove “direct result” by providing credible medical evidence. Gerba, 83 N.J. at 185; Atkinson v. Parsekian, 37 N.J. 43, 149 (1962). After considering all the relevant evidence in the record, the Board found that Ratner failed to carry her burden and prove that November 2022 incident was the “essential significant or substantial contributing cause” of her disability. Rather, the record shows that her disability was the result of symptomatic, pre-existing condition.

In Gerba, the Supreme Court noted that the legislative purpose of the “direct result” requirement was to apply a more exacting standard of medical causation and that AD should be denied when there is “an underlying condition such as osteoarthritis which itself has not been directly caused, but is only aggravated or ignited, by the trauma.” 83 N.J. at 186. A non-symptomatic pre-existing condition can combine with a traumatic event to satisfy the “direct result” requirement, but only where the pre-existing condition is stable and “might never cause any trouble.” Petrucelli v. Bd. of Trs., Pub. Emps.’ Ret. Sys., 211 N.J. Super. 280, 287 (App. Div.

1986). The question of whether a claimant's alleged disability is the direct result of a traumatic event is one necessarily within the ambit of expert medical opinion. Korelnia, 83 N.J. at 171. The weight granted to expert testimony depends on such factors as whether the expert witness testified in his specialty and whether the expert's conclusions are based only on the subjective complaints of a patient. Angel v. Rand Express Lines, Inc., 66 N.J. Super. 77, 86 (App. Div. 1961).

The Board determined that the ALJ incorrectly gave greater weight to Dr. Asta's opinion. Dr. Tatyana Marx's ("Dr. Marx")³ opinion more reliably accounts for Ratner's medical history and [REDACTED], and was aligned with Ratner's treating doctors, such as Dr. Scott Gottlieb ("Dr. Gottlieb"), Dr. Lomazow, Dr. Stieg, and [REDACTED] Szabo regarding the causation of Ratner's disability. Dr. Marx reviewed more than [REDACTED], commencing in 2013 and found that the records document the presence and progression of pre-existing degenerative changes. By contrast, Dr. Asta did not review any records aside from his own prior to testifying and agreed that even his own records overwhelmingly supported that prior to the November 2022 accident, Ratner experienced [REDACTED], which lasted for months at a time. Dr. Asta also primarily relied on Ratner's subjective complaints.

Contrary to the ALJ's findings, the record shows that prior to the November 2022 incident, Ratner's [REDACTED]. (T35:21-36:2, R-6; 1T36:15-20, R-7; 1T37:4-10, R-8; 1T38:6-12; R-14). In fact, Dr. Asta's own records starting from 2017 that Ratner was [REDACTED]. [REDACTED]. (1T108:14-110:8, R-9; 1T110:9-112:10, R-10; 1T112:16-113:5, R-11; 1T115:17-116:3, R-14). Dr.

³ Dr. Marx testified on behalf of the Board.

Asta even testified that the frequency of Ratner's [REDACTED] [REDACTED] prior to the 2022 incident, leading Ratner to the "susp[icion] that the [REDACTED] [REDACTED] is not under full control," (1T90:13-22, 1T124:17-125:15, R-22). Almost a year prior to the accident, in January 2022, Dr. Asta noted that Ratner had "[REDACTED] [REDACTED]." (R-21; T124:4-15). Dr. Steig's September 19, 2022, report (a month and a half before the November 2022 accident), also noted Ratner [REDACTED] [REDACTED] [REDACTED]. (1T131:13-133:11, R-46).

Additionally, the Board gave little weight to Dr. Asta's opinion because Dr. Asta admitted that he did not review any other medical records aside from his own in preparation for his report and testifying. (ID at 15; T104:7-10). Dr. Asta based his report on a review of his own notes without conducting [REDACTED] and by primarily relying on Ratner's subjective complaints. (1T101:5-22, 1T102:10-14, P-1). The Board noted that Dr. Asta did not review Ratner's 2014 and 2017 John Hopkins [REDACTED] (R-7; R-8); 2021 and 2022 reports from [REDACTED] by Dr. Gottlieb (R-38; R-39; R-40; R-41; R-42); 2022 and 2023 [REDACTED] by Dr. Lomazow (R-44; R-45); 2021 and 2022 [REDACTED] [REDACTED] Szabo (R-23; R-24; R-25; R-26; R-27; R-28; R-29; R-30; R-31, R-32; R-33); the report from Weill Cornell [REDACTED] by Dr. Stieg, dated September 19, 2022 (R-46); and emergency room records from Hackensack University Medical Center, dated November 2, 2022 (R-47). (1T104:7-10). The Board further notes that most of the aforementioned records relate directly to the presence of a pre-existing [REDACTED] that dates back to 2013.

The Board notes that while Ratner testified that the November 2022 incident caused her to experience [REDACTED],” that she had to be [REDACTED]

and that as a result, [REDACTED] was "constant" (ID at 4, 1T21:11-20), Ratner only reported [REDACTED] in the emergency room and had no other complains. (1T21:11-20, 1T67:14-69:16, R-47).

The Board also finds that Ratner's treatment with [REDACTED] Szabo for [REDACTED] prior to the 2022 accident was significant and related to her [REDACTED]. Ratner conceded that [REDACTED]. (ID at 5). Dr. Asta explained that [REDACTED]. (1T138:2-14). He further conceded that, although his report indicated that Ratner developed [REDACTED] as a result of the November 2022 accident, multiple records show that she [REDACTED] related to personal issues since March of 2021. (1T137:16-138:1, P-1; 1T139:9-19, R-35; 1T139:7-14, R-36; 1T141:20-142:1, R-37; 1T142:19-23, R-23; 1T143:18-21, R-27; 1T144:1-9, R-28). Dr. Asta testified "[REDACTED]," Ratner's [REDACTED] were reaching at times [REDACTED] prior to the 2022 accident. (1T89:15-20). The record further establishes that Ratner was experiencing [REDACTED] almost a year before the 2022 accident, and that she disclosed to her [REDACTED] that she was "... experiencing a lot of [REDACTED] during the session." (1T53:9-14, R-31; 1T54:8-15, R-32; 1T56:8-20, R-33).

Accordingly, the Board found that Dr. Marx's opinion regarding causation deserves greater weight than Dr. Asta's because she based her analysis on [REDACTED] medical evidence connected to specific clinical findings more consistent with Ratner's treating physicians' conclusion. Ratner's treating physicians' records support the finding that her pre-existing condition was the substantial contributing cause of her disability and, in fact, the symptoms practically did not change after the incident of 2022. Gerba, 83 N.J. at 186. Moreover, unlike Petrucelli, Ratner's pre-existing condition was not quiescent, as the record

demonstrates that she had longstanding and chronic issues with her [REDACTED], which was confirmed by Ratner's expert - Dr. Asta.

Finally, the Board rejects the ALJ's conclusion that November 2022 incident was the essential significant or substantial contributing cause of Ratner's disability because she was able to work before the incident. (ID at 21-22). This conclusion regarding causation is contrary to Gerba and Petrucelli. Based on the record and Dr. Asta's testimony, Ratner had pre-existing [REDACTED] that caused [REDACTED], was not fully treated, and affected her ability to perform her activities of daily living. The November 2022 incident, which exacerbated Ratner's condition cannot be the "essential significant or substantial contributing cause" of Ratner's disability because she was already experiencing [REDACTED] that was not treatable. The record does not establish that the November 2022 incident worsened her condition in a "significant" or "substantial" manner and was "essential" in worsening her condition to such a degree that she could no longer perform her job functions. Laurie v. Bd. of Trs., Pub. Emps. Ret. Sys., No. A-3128-23, (App. Div. Sept.18, 2025) (slip op. at 9). Moreover, the ALJ's temporal analysis for causation has been expressly rejected by the Appellate Division in Torres v. Board of Trustees, Police & Firemen's Retirement System, No. A-2388-15T3 (App. Div. Aug. 3, 2018) (slip op. at 16).

Therefore, the Board rejects the ALJ's determination that Dr. Asta's opinion deserves greater weight. The Board also rejects the ALJ's finding that Ratner satisfied the "direct result" requirement, as the overwhelming records prove that she had a chronic, highly symptomatic, and degenerative pre-existing condition. Accordingly, the Board rejects the ALJ's conclusion that Ratner is entitled to AD, as she failed to prove that her disability was the essential significant or substantial contributing direct result of her disability.

Law Office of Michael K. Kalmus
Michael Kalmus, Esq.
RE: Kathryn Ratner
October 10, 2025
Page 11

You have the right to appeal this final administrative action to the Superior Court of New Jersey, Appellate Division, within 45 days of the date of this letter in accordance with the Rules Governing the Courts of the State of New Jersey. All appeals should be directed to:

Superior Court of New Jersey
Appellate Division
Attn: Court Clerk
PO Box 006
Trenton, NJ 08625

Sincerely,

A handwritten signature in blue ink, appearing to read "Saretta Dudley", is placed over a light gray rectangular background.

Saretta Dudley, Secretary
Board of Trustees
Teachers' Pension and Annuity Fund

G-1/wt/sd

C: D. Lewis (ET); R. Clark (ET); A. Saco (ET); C. Law (ET)
OAL, Attn: Library (ET)
DAG Kseniia I. Michkodan (ET)
Kathryn Ratner (regular mail)