

**COMMONWEALTH OF MASSACHUSETTS  
DIVISION OF ADMINISTRATIVE LAW APPEALS**

**Julia Baker,**  
Petitioner

v.

Docket No. CR-23-0570

**Massachusetts Teachers' Retirement System,**  
Respondent

**Appearance for Petitioner:**

Ronald Belluso, Esq.

**Appearance for Respondent:**

Ashley Freeman, Esq.

**Administrative Magistrate:**

Kenneth Bresler

**SUMMARY OF DECISION**

Petitioner has not proved that she is entitled to accidental disability retirement benefits.

**DECISION**

The petitioner, Julia Baker, appeals the denial by the Massachusetts Teachers' Retirement System (MTRS) of her application for accidental disability retirement benefits.

The case was submitted on the exhibits. The exhibits attached to the Joint Pre-Hearing Memorandum were clearly marked as follows: Exhibits 1 to 2; Agreed Exhibits 1 to 7; and Respondent's Exhibits 1 to 15. I admit and refer to them with those designations. I admit Ms. Baker's appeal as Exhibit 3.

Both parties submitted briefs in September 2025.

## Findings of Fact

1. On October 4, 2018, Ms. Baker's employer filed an Employer's First Report of Injury. It stated that the date of injury was September 11, 2018; the first day of total or partial incapacity to earn wages was September 12, 2018; the source of the injury was "persons, plants, animals, and minerals"; and a brief description of how the injury happened was "student head butted on face." (Ex. 2) (capital letters reduced to lower case)

2. On October 10, 2019, Ms. Baker applied for accidental disability retirement benefits.  
(Agreed Ex. 1)

3. On her application, Ms. Baker wrote:

I was hit in the head by a student[,] causing vision loss due to traumatic iritis[,] as well as a concussion causing post-concussive syndrome[e].

(Agreed Ex. 1, p. 4) She was hit in the left "temple area" of her head and suffered vision loss in her left eye. (Agreed Ex. 1, p. 10)

4. The injury happened during a change in classes when Ms. Baker and another staff person were escorting students from a room. (Agreed Ex. 1, p. 10)

5. When asked to describe any other circumstances that contributed or may have contributed to her disability, Ms. Baker wrote, "Prior work-related concussions." (Agreed Ex. 1, p. 14)

6. When asked about other accidents or injuries Ms. Baker wrote that in 1976, she had been hit by a truck while biking; in 2000, she was rear-ended while heading from one work site to another, resulting in a concussion and neck sprain; in 2005, she was in a car accident while heading from one work site to another, resulting in a concussion, disc protrusions, and a broken

rib; and in 2006, she was hit in the head by a student, resulting in a concussion and disc protrusions. (Agreed Ex. 1, p. 15)

7. On September 10, 2019, Dr. Roger Kinnard filled out a Treating Physician's Statement. (Agreed Ex. 2)<sup>1</sup>

8. When asked Ms. Baker's diagnoses, Dr. Kinnard wrote: "post-traumatic HA," which might be "headache." The second person's handwriting adds more details that may or may not have been from Dr. Kinnard: post-traumatic syndrome with headaches, memory problems, depression, and balance problems. (Agreed Ex. 2, p. 2)

9. Dr. Kinnard stated that Ms. Baker's disability was likely to be permanent. (Agreed Ex. 2, p. 2)<sup>2</sup>

10. When asked why he thought that Ms. Baker's disability will continue indefinitely, Dr. Kinnard wrote, "HA's have lasted a long time overall," probably referring to headaches. (Agreed Ex. 2, p. 3)

11. Dr. Kinnard stated that Ms. Baker's disability was such as might be the natural and proximate result of the injury that she had claimed. (Agreed Ex. 2, p. 3)

12. When asked what other event, circumstance, or condition in Ms. Baker's medical history may have contributed to her disability, Dr. Kinnard answered none. (Agreed Ex. 2, p. 3)

---

<sup>1</sup> Dr. Kinnard's handwriting is hard to read. A second, different, and easier to read set of handwriting appears on the statement. I assume that a second person added neater handwritten versions of Dr. Kinnard's entries, but the record does not reveal who did so, when, and why.

<sup>2</sup> MTRS's brief contends that Dr. Kinnard "noted that her symptoms 'are likely to improve,' and...more treatment [is] available to improve her ailments." (MTRS Br., unnumbered page) I do not see these statements in the Treating Physician's Statement. (Agreed Ex. 2)

13. On December 3, 2022, Daniel D. Vardeh, a medical panelist with a specialty in neurology and neuro-surgery, examined Ms. Baker and opined that she was not physically incapable of performing the essential duties of her job. (Agreed Ex. 6)

14. In his narrative, Dr. Vardeh wrote in part:

...I find her neurologically entirely intact, including mental status, strength, sensation, and coordination. Regarding her vision, I am unable to detect any overt visual deficit on confrontation testing, and despite her claims that she can only see a pinhole out of the left eye, her peripheral vision appears intact. I believe her most prominent symptom is chronic migraine headaches, which have not been adequately treated, but which were pre-existing to her latest concussion injury.

I believe to a reasonable degree of medical certainty that symptoms of a concussion from September 11, 2018 have entirely resolved and she is able to return to full-time, unrestricted work. She would greatly benefit from seeing a headache specialist and being adequately treated for her migraines.

(Agreed Ex. 6)

15. On December 21, 2022, Dr. Diana Apetauerova, a medical panelist with a specialty in neurology and neuro-surgery, examined Ms. Baker and opined that she was physically incapable of performing the essential duties of her job, her incapacity was likely to be permanent, and her incapacity might be the natural and proximate result of her personal injury.

(Agreed Ex. 6)

16. In her narrative, Dr. Apetauerova wrote:

The fact that her headaches did not improve for 4 years, it is unlikely that they will improve now.

(Agreed Ex. 6)

17. On January 27, 2023, Dr. Jay Ellis, a medical panelist with a specialty in neurology and neuro-surgery, examined Ms. Baker and opined she was physically incapable of performing

the essential duties of her job, her incapacity was likely to be permanent, and her incapacity might be the natural and proximate result of her personal injury. (Agreed Ex. 6)

18. In his narrative, Dr. Ellis wrote:

She has had at least 4 and possibly 5 prior concussions, which were aggravated by the injury sustained on 9/11/18. It is unlikely that her migraine headaches will completely be resolved, although they are much improved now. The visual loss is permanent, from what I can tell.

(Agreed Ex. 6)

19. On October 27, 2023, MTRS denied Ms. Baker's application for accidental disability retirement benefits. (Agreed Ex. 7)

20. MTRS did so because Ms. Baker did not prove, among other things, that she is incapacitated, her incapacity is permanent, and her incapacity was caused by the personal injury she sustained while performing her duties. (Agreed Ex. 7)

21. On November 9, 2023, Ms. Baker timely appealed. (Ex. 3)

### **Discussion**

Ms. Baker

had the burden of proof on the question whether there existed the requisite causal relationship between [her] incapacity and a work-related incident.

*Lisbon v. Contributory Ret. Appeal Bd.*, 41 Mass. App. Ct. 246, 255 (1996). In her brief, Ms. Baker did not meet her burden.

Ms. Baker twice argued in her brief that the medical panel's majority opinion is binding on MTRS. (Pet. Br., unnumbered pages) It is not. The Appeals Court has said:

As was its obligation, see G.L. c. 32, § 6(3); 840 Code Mass.Reg. § 10.10(8) (1989), the panel certified only whether or not the disability was "such as *might be* the natural and proximate result of the personal injury sustained or hazard undergone on account of which retirement is claimed" (emphasis

added)....

*Id.* at 254. Ms. Baker's positive medical panel certification "is not conclusive of the ultimate fact of causal connection but stands only as some evidence on the issue." *Id.* (citation and internal quotation marks omitted).

Ms. Baker also twice argues that because her treating physician and an independent medical examiner examining her for workers' compensation concluded that she is totally and permanently disabled,<sup>3</sup> MTRS's denial of her application was arbitrary and capricious. (Pet. Br., unnumbered pages) That is also not so.

An application for accidental disability retirement benefits cannot advance without a treating physician's statement. 860 CMR 10.06.1.b. If a treating physician's statement that a member is totally and permanently disabled is binding on a retirement board, there would be no need to send cases to a medical panel, and a retirement board could not deny any application for failing to establish causation. In addition, the legislative and regulatory schemes for workers' compensation and accidental disability retirement benefits overlap, but they are not identical. A physician examining an applicant for workers' compensation is not doing so under the same standard as does a medical panelist examining an applicant for accidental disability retirement benefits. No statute, regulation, or case requires a retirement board to award accidental disability retirement benefits on the basis of an independent medical examiner's report, and Ms. Baker's brief cites none. While I may consider such a report, she did not provide a reason why I should credit it.

---

<sup>3</sup> Ms. Baker's brief does not provide an exhibit number or Bates number for the independent medical examiner's report and I have been unable to locate it.

Ms. Baker's brief makes some conclusory legal arguments without citing cases. When it does cite cases, it provides only the case *names*, not citations, let alone pinpoint citations. I take that as a concession that her arguments are not strong or worth spending the time to develop.

MTRS's brief is also not completely developed. It cites medical records, but not by exhibit number. And although the medical records, over 200 pages of them, have page numbers, as DALA requires, the brief's references to the records do not include page numbers. That has hindered me from fully examining its arguments. Nonetheless, this was Ms. Baker's case to make, *Lisbon*, 41 Mass. App. Ct. at 255, and she has not done so.

### **Conclusion and Order**

The petitioner has not proved that she is entitled to accidental disability retirement benefits. The MTRS's denial of her application is affirmed.

Dated: May 1, 2026

/s/ Kenneth Bresler

---

Kenneth Bresler  
Administrative Magistrate  
DIVISION OF ADMINISTRATIVE LAW APPEALS  
14 Summer St., 4th Floor  
Malden, MA 02148  
Tel: (781) 397-4700  
[www.mass.gov/dala](http://www.mass.gov/dala)