

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS
ON REFERRAL BY THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES**

In the Matter of:)
)
 M G) OAH No. 14-1937-MDS
) Agency No.

DECISION

I. Introduction

M G applied for services under the Medicaid Home and Community-Based Waiver Services (Choice Waiver) program administered by the Division of Senior and Disability Services.¹ The division assessed Ms. G’s physical, emotional and cognitive functional abilities² and determined that she was ineligible on the ground that she did not need skilled or intermediate nursing care.³ Ms. G filed an appeal.⁴

The assigned administrative law judge conducted a telephonic hearing on December 5, 2014. Ms. G was represented by her brother and power of attorney, K C. Victoria Cobo represented the division. Mr. C testified, as did B T, a care provider at the assisted living home where Ms. G resides, and F J, Ms. G’s care coordinator. Denise Kichura, a registered nurse who conducted the assessment, also testified.

Ms. G did not establish, by a preponderance of the evidence, that she needs skilled or intermediate nursing care. Accordingly, the division’s decision to deny her application is sustained.

II. Facts

M G is 67 years old.⁵ She lives in a private room in an assisted living facility for seniors, located in Alaska.⁶ Ms. G’s primary diagnosis is vascular dementia (with depression)⁷ resulting from multiple brain surgeries and radiation for treatment of an optic nerve tumor as a child,⁸ with secondary diagnoses of dysphagia,⁹ syncope¹⁰ and collapse,¹¹ subdural hemorrhage,¹² and

¹ See AS 47.07.045.
² See 7 AAC 130.213(a).
³ Ex. D, p. 1. See 7 AAC 130.205(a)(4); -.215(4)(A); 7 AAC 140.510-515.
⁴ 7 AAC 130.219(f).
⁵ Ex. E, p. 3.
⁶ Ex. E, p. 3.
⁷ Ex. E, p. 5.
⁸ Ex. 1; Ex. 2. See Dorland’s Illustrated Medical Dictionary, p. 699 (27th ed. 1988) (hereinafter, “Dorland’s”).
⁹ Ex. E, p. 5. Dysphagia has been defined as “difficulty in swallowing[.]” Dorland’s, p. 519.
¹⁰ Ex. E, p. 5. Syncope is a temporary loss of consciousness, such as from coronary deficiency. See Dorland’s, p. 1628.
¹¹ Ex. E, p. 5. Collapse has been defined as “a state of extreme prostration and depression[.]” See Dorland’s, p. 357.

monoplegia of the lower limb (affecting the dominant side).¹³ She has cardiovascular disease and osteoporosis, and had cerebrovascular accidents (strokes) in 2000 and 2002.¹⁴ Her mental acuity has declined in recent years.¹⁵ She has impaired vision, even with glasses, and highly impaired hearing.¹⁶ At the time she was assessed, Ms. G was receiving physical and occupational therapy, each on two days per week, but that therapy was completed before October 1, 2014.¹⁷ Ms. G does not need professional nursing services for medical care or to assess, observe or manage her cognitive deficits or behavior.¹⁸

1. Bed Mobility

Ms. G sleeps in a standard bed.¹⁹ Ms. G is not always able to reposition her body while lying on her bed; sometimes she must be provided physical assistance to turn from her stomach in the morning.²⁰

2. Transfer

Ms. G's room is equipped with a lift chair.²¹ When assessed on September 15, Ms. G was observed to transfer on and off her lift chair, onto a sofa, and on and off her bed, all without assistance.²² At a neuropsychological evaluation, she was observed to need assistance to transfer.²³ When assessed on September 15, Ms. G's bed was not equipped with a hand rail, although that device had been recommended.²⁴ Her bed has since been equipped with a rail, and she has learned to pull herself to a sitting position in bed preparatory to getting out of bed.²⁵

3. Locomotion

Ms. G has been prescribed a right leg brace and orthotic shoes and is unable to walk independently without them.²⁶ She is unable to don these assistive devices without physical

¹² Ex. E, p. 5. Subdural hemorrhage is bleeding in the membrane covering the brain. *See* Dorland's, pp. 118, 514, 750, 1598.

¹³ Ex. E, p. 5. Monoplegia has been defined as "paralysis of a limb[.]" Dorland's, p. 1052.

¹⁴ Ex. 1; Ex. E, p. 24.

¹⁵ *See* Ex. 1 (since 2008, "a decline in her mentation").

¹⁶ Ex. E, p. 25.

¹⁷ Ex. E, pp. 7, 16, 24; C Testimony.

¹⁸ *See* Ex. E, pp. 15-17, 18, 19; Kichura Testimony.

¹⁹ *See* Ex. E, p. 30.

²⁰ T Testimony. *See* Ex. E, p. 8.

²¹ Ex. E, p. 8.

²² Ex. E, pp. 8, 10.

²³ Ex. 2, p. 9.

²⁴ Ex. E, pp. 5, 8, 30.

²⁵ C Testimony.

²⁶ *See* Ex. E, pp. 5, 8, 10, 11, 13; C Testimony.

assistance.²⁷ With those assistive devices she can ambulate independently but requires balance assistance.²⁸ Ms. G has a seated walker, and can move about her apartment and the assisted living home premises independently when using it.²⁹

4. *Eating*

Ms. G has sufficient range of motion and gross and fine motor skills to feed herself using regular eating utensils.³⁰ She has some difficulty swallowing but not to the point of a threat of choking.³¹

5. *Toilet Use*

Ms. G can generally use a toilet without physical assistance, although on some occasions she needs physical assistance to transfer off the toilet.³² However, her mental disability prevents her from adequately cleaning herself without physical assistance.³³

6. *Cognition*

Ms. G has a “severe neurocognitive impairment across nearly all cognitive domains...with the majority of her scores falling below the [first percentile]” (i.e., below 99 of 100 persons of her gender and age).³⁴ She has limited ability to follow written instructions. Although she lacks insight and is easily confused, she responds to attentive and appropriate verbal directions.³⁵ She rarely makes decisions regarding tasks of daily life, in that absent supervision and cueing she neglects routine activities such as transferring, dressing, eating, personal hygiene, and bathing.³⁶ She has both short and long term memory problems.³⁷ When assessed, she was able to recall only one of three words.³⁸ She cannot recall events or names unprompted.³⁹ She is normally able to identify faces and recall the names of staff and friends when she sees them,⁴⁰ but “struggles to name pictures of common objects.”⁴¹ She is at times

²⁷ See Ex. E, pp. 10, 13, 30.

²⁸ C Testimony; T Testimony; Ex. 1, p. 4.

²⁹ Ex. E, pp. 8, 30.

³⁰ See Ex. E, p. 6, 11; Kichura Testimony.

³¹ C Testimony; T Testimony. As previously noted, Ms. G has a diagnosis of dysphagia. *Supra*, note 9.

³² See Ex. E, p. 11; T Testimony.

³³ See Ex. E, p. 11.

³⁴ Ex. 2, p. 10; C Testimony.

³⁵ T Testimony; C Testimony; Ex. 1; Ex. 2.

³⁶ Ex. E, pp. 8, 10, 11, 12, 13.

³⁷ See Ex. E, p. 18; Ex. 2.

³⁸ Ex. E, p. 6.

³⁹ Ex. E, p. 1.

⁴⁰ Ex. E, pp. 6, 18.

⁴¹ Ex. 2, p. 10.

able to find her way about her assisted living facility and to locate her own apartment,⁴² but she sometimes gets lost.⁴³ Notwithstanding her hearing impairment, Ms. G is able to understand others and to be understood.⁴⁴

7. Behavior

Ms. G is resistant to assistance with a variety of activities,⁴⁵ but is not intractable.⁴⁶ She is occasionally aggressive or disruptive.⁴⁷ She engages in inappropriate behavior, such as smearing feces.⁴⁸ She does not sleep well.⁴⁹ She frequently wanders within the assisted living home but does not leave the premises.⁵⁰

III. Discussion

The purpose of the Choice Waiver program is to offer individuals the choice to receive home and community-based services as an alternative to institutional care.⁵¹ An adult age 65 or older is eligible to receive home and community-based services under the program if he or she requires the level of care that is normally provided in a nursing facility.⁵² Services available under program include residential supported-living services provided in an assisted living home.⁵³

The division determines whether an applicant requires nursing facility level of care (either skilled nursing care or intermediate care) for purposes of the Choice Waiver program based on the results of the Consumer Assessment Tool (CAT) (2009 rev.).⁵⁴ The CAT is a form created by the Department of Health and Social Services to evaluate an individual's functional ability.⁵⁵

⁴² Ex. E, p. 6, 9; Kichura Testimony.

⁴³ Ex. E, p. 9.

⁴⁴ Ex. E, p. 25; Ex. 2.

⁴⁵ Ex. E, pp. 7, 10, 12, 13, 19

⁴⁶ Ex. E, p. 20,

⁴⁷ Ex. E, p. 20.

⁴⁸ Ex. E, pp. 11, 19

⁴⁹ Ex. E, p. 20.

⁵⁰ Ex. E, pp. 19, 20.

⁵¹ 7 AAC 130.200.

⁵² AS 47.07.045(a); 7 AAC 130.205(d)(3).

⁵³ 7 AAC 130.220(b)(3), -.255

⁵⁴ 7 AAC 130.215(4); 7 AAC 160.900(d)(6). See 7 AAC 140.510, -.515.

⁵⁵ See generally, <http://dhss.alaska.gov/dsds/Documents/docs/cat-pcatOnlineFlyer.pdf> (accessed June 19, 2013). In addition to being used in assessments for eligibility for the Choice Waiver program, the CAT is used in determining eligibility for personal care attendant (PCA) services under other programs. *Id.*

One section of the CAT covers the individual's physical abilities with respect to specified self-care tasks (activities of daily living),⁵⁶ such as getting in and out of bed, moving about, dressing, eating, bathing, using a toilet, and grooming.⁵⁷ Other sections of the CAT cover the individual's cognition and behavior.⁵⁸ An individual may be found to need nursing facility level of care services, using the CAT, based on the individual's scores for five specific activities of daily living: bed mobility, transfers, locomotion, eating, and toilet use.⁵⁹ An individual may also be found to need nursing facility level of care services based on the individual's scores for cognition and behavior, either alone or in conjunction with their scores for the specified activities of daily living.⁶⁰

An applicant for waiver services bears the burden of proof to establish eligibility.

A. Scores

An individual's ability to perform the five specified activities of daily living may be scored zero (independent), one (supervision), two (limited physical assistance), three (extensive physical assistance), or four (dependent).⁶¹ For cognition and behavior, scores from zero to three may be provided, based on the presence of specified cognitive markers or problem behaviors.⁶²

1. *Bed Mobility*

R.N. Kichura did not observe Ms. G reposition herself in bed,⁶³ and Ms. G's self-reported abilities are not reliable, given her cognitive deficit.⁶⁴ Mr. C testified that Ms. G is capable of repositioning herself in bed, but he is not generally present while she is in bed. The most persuasive evidence regarding Ms. G's ability in this activity is the testimony of her care provider, B T. Ms. T testified that on some occasions in the morning she must turn Ms. G off her stomach. The preponderance of the evidence is that Ms. G requires physical assistance with this

⁵⁶ The term "activities of daily living" is not defined for purposes of the Choice Waiver program. The CAT is utilized for both the Choice Waiver program and the provision of personal care assistance under another Medicaid program. For purposes of personal care services provided by a personal care attendant, specific types of activities are described as activities of daily living. See 7 AAC 125.030(b)(1)-(8). The CAT's descriptions of the activities to be scored is not in all cases identical to the regulatory definitions.

⁵⁷ See Ex. E, pp. 8-13, 21-22. See also Ex. E, p. 6 ("Functional assessment").

⁵⁸ Ex. E, pp. 1-2, 18-20. See also, Ex. E, p. 6 ("Cognition").

⁵⁹ Ex. E, p. 32 (NF 1e).

⁶⁰ See Ex. E, p. 32 (NF 2-7).

⁶¹ Ex. E, pp. 8, 9, 11.

⁶² Ex. E, pp. 18, 19.

⁶³ Kichura Testimony.

⁶⁴ See Ex. 1, p. 4 ("Although her verbal skills allow her to converse, she lacks insight into her cognitive and physical impairments. This results in a self-report that would support a much higher level of function than her actual functional abilities."); Ex. 2, p 10 ("severe neurocognitive deficit across nearly all cognitive domains, including attention and working memory, speed of processing, [and] expressive language....").

activity once or twice a week, with weight bearing assistance less than weekly. This is limited assistance, scored as two on the CAT.

2. *Transfer*

R.N. Kichura observed Ms. G transfer independently from her lift chair to a sofa, on and off her lift chair, and to and from a seated position on her bed.⁶⁵ However, Ms. T testified that she has to provide a pulling assist to get Ms. G out of bed in the morning⁶⁶ as well as on other occasions, and Ms. J testified that she had observed an assistant provide a pulling assist to a standing position from the lift chair on one occasion (Ms. J is not a frequent visitor). Moreover, Mr. C related an instance in which Ms. G was unable to stand from her chair in the dining room without assistance, Ms. T testified that Ms. G on occasion uses her buzzer to obtain physical assistance for transfers or other activities, and Ms. G was observed to need assistance with standing at her neuropsychological examination.⁶⁷ While, as R.N. Kichura's observation indicates, Ms. G may not always need physical assistance for transfers, particularly to and from a seated position, and the manner in which Ms. T provides assistance in the morning to transfer out of bed may vary, the preponderance of the evidence is that Ms. G requires physical assistance with this activity, including weight bearing assistance at least three times a week.⁶⁸ This is extensive assistance, scored as three on the CAT.

3. *Locomotion*

The clear preponderance of the evidence is that Ms. G is independent when using her walker. Ms. T testified that Ms. G will grab her for support when walking, which indicates that the assistance Ms. G requires is not weight bearing, but rather non-weight bearing balance assistance. Because Ms. G is independent with her walker and she has not shown that she requires weight bearing assistance when using her other assistive devices (leg brace and orthotic shoe), she has not shown that she requires more than supervision, scored as one on the CAT, for this activity.

4. *Eating*

Ms. G has not claimed to need more than supervision and cueing for eating. She is not entitled to a score of two (limited assistance) or more on the CAT for this activity.

⁶⁵ Ex. E, p. 8.

⁶⁶ On one occasion, Ms. T testified that she provides a pulling assist to a sitting position and that Ms. G can "usually" stand from there; on another occasion she testified that "she can't get up [from bed] without a boost."

⁶⁷ Ex. 2, p. 9.

⁶⁸ See also, Ex. 1, p. 5.

5. Toilet Use

Ms. G was scored as two (limited assistance) on this activity. Given that she does not require extensive assistance for at least two other of the specified activities, a higher score would not impact her eligibility for Choice Waiver services.⁶⁹

6. Cognition

An individual is given initial scores for cognition, supplemented by further scores if the individual meets a certain threshold on the initial scores.

a. Initial Scores

Initial scores are provided for memory, memory/recall ability, cognitive skills for daily decision-making, and professional nursing assessment, observation and management.⁷⁰

Ms. G was scored as having short- and long-term memory problems. That score is correct. For memory/recall ability, she was scored as normally able to recall the current season, the location of her own room, and names and faces. There is no evidence to suggest that Ms. G cannot normally recall the current season. There is evidence that she wanders but none that she cannot normally locate her own room, as R.N. Kichura testified she observed her to do. As for recalling names and faces, R.N. Kichura observed Ms. G recognize staff and friends at the assessment.⁷¹ Absent any testimony to establish that Ms. G does not recall names and faces of friends or relatives (without prompting), she has not shown she was scored incorrectly on this category.⁷²

Ms. G was scored at two, moderately impaired, in the category of “Cognitive Skills for Daily Decision-Making[.]” which the CAT describes as “mak[ing] decisions regarding tasks of daily life[.]”⁷³ The CAT describes moderately impaired for this category as “decisions poor, cues/supervision required[.]”⁷⁴ A score of three, severely impaired, is described as “never/rarely made decisions[.]”⁷⁵

R.N. Kichura explained that she deemed a score of two (moderately impaired) appropriate because Ms. G lives largely independently, choosing when to go to meals or engage

⁶⁹ See *infra*, notes 85, 86.

⁷⁰ Ex. E, p. 18.

⁷¹ Ex. E, p. 6.

⁷² On the supplemental scoresheet, R.N. Kichura scored Ms. G as unable to recall “entire events...or names of close friends or relatives without prompting.” Ex. E, p. 1. That score seems inconsistent with R.N. Kichura’s observation at the time of the assessment. However, providing a higher score of three for this category on the initial scoresheet would not change the outcome of this case.

⁷³ Ex. E, p. 18.

⁷⁴ Ex. E, p. 18.

⁷⁵ Ex. E, p. 18.

in social activities with other residents in the facility. But the clear preponderance of the evidence is that rather than actively making decisions, Ms. G is nearly entirely reactive: she only rarely “chooses” to engage in the tasks of daily life. Her neuropsychological profile is of a severely impaired person, rather than moderately impaired. Based on the record as a whole, the preponderance of the evidence is that Ms. G is properly scored as three, severely impaired.

As for nursing assessment, observation and management for her behavioral problems, the evidence establishes that Ms. G was correctly scored as not needing those services.

b. Supplemental Scores⁷⁶

Supplemental cognitive scores of zero to three or four are provided in each of five categories (memory for events, memory and use of information, global confusion, spatial orientation, and verbal communication).⁷⁷ The sum of the scores may be used, in conjunction with the scores for activities of daily living, to determine eligibility

In the category of memory for events, Ms. G was scored as two. The higher score, three, is for persons “who cannot recall entire events or name of spouse or other living partner even with prompting.”⁷⁸ While there is evidence that Ms. G does not recall names of common objects, she did not establish that she cannot recall entire events or family members’ names even with prompting. She did not prove she is entitled to a higher score in this category.

As for memory and use of information, Ms. G was scored as two. The CAT describes this as the correct score for a person who “[h]as minimal difficulty in remembering and using information” such as one who “[r]equires direction and reminding from others one to three times per day” and “[c]an follow simple written instructions.”⁷⁹ A score of three is for a person who has “difficulty remembering and using information”, such as one who “[r]equires direction and reminding from others four or more times per day” and “[c]annot follow written instructions.” The neuropsychological report is inconsistent with a description of Ms. G as having only minimal difficulty in remembering and using information, and the evidence clearly indicates that she regularly requires prompting for routine activities throughout the date. Written instructions are not followed absent such attention. Under these circumstances, Ms. G has established that the proper score is three.

⁷⁶ R.N. Kichura testified that a score of three in the category “Cognitive Skills for Daily Decision-Making” is sufficient to meet the threshold for supplemental cognitive scores.

⁷⁷ Ex. E, p. 1.

⁷⁸ Ex. E, p. 1.

⁷⁹ Ex. E, p. 1.

For global confusion, Ms. G was scored as two, for “[p]eriodic confusion during daytime.”⁸⁰ One might conclude that the more appropriate score is three, for “[n]early always confused[,]” in that Ms. G seems to maintain a fairly consistent level of limited self-awareness throughout the day. But for the remaining categories, for both of which she was scored as two, the evidence clearly establishes that she is not entitled to a score of three on either spatial awareness (“[g]ets lost in own home or present environment”) or verbal communication (“[u]nable to speak coherently or make needs known”).

Ms. G’s combined score on all five categories is no more than 12: two for memory for events, three for memory and use of information, at most three for global confusion, and two each for spatial awareness and verbal communication.

7. *Behavior*

An individual is given initial scores for behavior, supplemented by further scores if the individual meets a certain threshold on the initial scores.

a. *Initial Scores*

Initial scores are provided for wandering, verbal abuse, physical abuse, socially inappropriate or disruptive behavior, and resistance to care.⁸¹ Ms. G’s scores for wandering, socially inappropriate or disruptive behavior, and resistance to care were sufficient to meet the threshold for supplemental scores in this section of the CAT.

b. *Supplemental*

Supplemental scores of from zero to three, four or five are provided for sleep patterns, wandering, behavioral demands on others, danger to self and others, and awareness of needs/judgment.⁸² The sum of the scores may be used, in conjunction with the scores for activities of daily living, to determine eligibility

For the first three categories, Ms. G was scored as three. She did not establish that she is entitled to the higher score of four for sleep patterns (“[u]p wandering for all or most of the night, inability to sleep”), wandering (“Wanders outside and leaves grounds.”), or behavioral demands (“create[s] consistent difficulties that are not modifiable to manageable levels”). For danger to self and others, she was scored as two and she did not establish that she is entitled to a higher score of three (“professional judgment is required to determine when to administer prescribed medication”) or five (“dangerous or physically abusive”).

⁸⁰ Ex. E, p. 1.

⁸¹ Ex. E, p. 19.

⁸² Ex. E, pp. 2, 20.

For the category of awareness of needs/judgment, dealing with a person's understanding of their own self-care needs, Ms. G was scored as two, described in the CAT as appropriate for a person who "[f]requently...has difficulty understanding those needs...but will cooperate when given direction or explanation."⁸³ A score of three is appropriate for a person who "[d]oes not understand those needs that must be met...and will not cooperate even though given direction or explanation."⁸⁴ While Ms. G does not appear to understand her self-care needs at all, the evidence indicates that she does cooperate to the extent she is physically able once provided sufficient direction and explanation. Under those circumstances, she has not shown that she is entitled to a score of three in this category.

Ms. G's combined score on all five categories is 13: three for sleep patterns, wandering, and behavioral demands, and two for danger to self and others, and awareness of needs/judgment.

B. Eligibility

Once the CAT has been completed and the applicant has been properly scored for the various activities of daily living, the CAT provides a matrix that determines the person's eligibility for Choice Waiver services.⁸⁵ The matrix has seven sections, NF 1-NF 7. Eligibility is established under either section NF 1 or NF 7.

Persons are eligible under section NF 1 if they establish a need for regular professional nursing services⁸⁶ or if their scores on three of the five specified activities of daily living are three or higher.⁸⁷ As previously explained, Ms. G does not need professional nursing services, and she did not receive a score of three or higher on at least three of the five specified activities of daily living.⁸⁸ She is therefore ineligible under NF 1.

A person who, like Ms. G, is not eligible under the section NF 1 of the matrix may be found eligible under the section NF 7. Sections NF 2-NF 4 of the matrix are each scored as zero or one, depending on the information and scores in the CAT.⁸⁹ The scores on those three sections are added and, if the total is one or more (NF 5), combined with the person's score on

⁸³ Ex. E, pp. 2, 20.

⁸⁴ Ex. E, pp. 2, 20.

⁸⁵ Ex. E, p. 32.

⁸⁶ Ex. E, p. 32 (NF 1a-1d).

⁸⁷ Ex. E, p. 32 (NF 1e).

⁸⁸ *Supra*, pp. 5-7.

⁸⁹ Ex. E, p. 32 (NF 2-NF 4).

the next section (NF 6) to yield a total score on the final section (NF 7). Persons receiving a score of three or more on section NF 7 are deemed eligible.

To receive a score of one on section NF 2, NF 3 or NF 4, all of the questions in the section must yield a “yes” answer. For Ms. G, questions a, c, and d in section NF 2 are correctly answered “no” because Ms. G does not require professional nursing services, and thus she receives a score of zero on section NF 2.⁹⁰ For section NF 3, question d is correctly answered “no”, because she does not require professional nursing oversight, and her combined supplemental score for cognition is less than 13,⁹¹ and thus she receives a score of zero on section NF 3 as well. Finally, for section NF 4, question b is correctly answered “no”, because Ms. G does not require professional nursing oversight regarding her behaviors and she did not receive a score of 14 or more on the supplemental cognitive score sheet,⁹² and thus she receives a score of zero on section NF 4 as well.

Because her combined score on sections NF 2, NF 3 and NF 4 is zero, Ms. G does not qualify to have her scores on sections NF 5 and NF 6 combined, and she is ineligible under section NF 7 of the matrix.

IV. Conclusion

Ms. G did not prove by a preponderance of the evidence that she is eligible for Choice Waiver services. The division’s decision is therefore sustained.

DATED December 31, 2014.

Signed _____
Andrew M. Hemenway
Administrative Law Judge

⁹⁰ See Ex. E, pp. 15-17. As to question b, Ms. G was receiving two days each per week of physical and occupational therapy at the time of the assessment, but no therapy of either kind at the time her application was denied.

⁹¹ Ex. E, pp. 1, 18. See *supra*, p. 8-9. Because question d is correctly answered “no”, it makes no difference whether question b is also correctly answered “no.”

⁹² Ex. E, p. 19.

Adoption

The undersigned by delegation from the Commissioner of Health and Social Services, adopts this revised decision as final under the authority of AS 44.64.060(e)(1).

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 44.62.560 and Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 9th day of February, 2015.

By: Signed
Name: Ree Sailors
Title: Deputy Commissioner, DHSS

[This document has been modified to conform to the technical standards for publication.]