

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

In the Matter of:	)	
	)	
U T	)	OAH No. 12-0577-MDS
	)	HCS Case No.
_____	)	Medicaid ID No.

**DECISION**

**I. Introduction**

Ms. T applied for PCA services.<sup>1</sup> The Division denied her application on April 25, 2012. Ms. T requested a hearing on May 10, 2012.<sup>2</sup> The Division issued a supplemental denial notice on July 24, 2012.<sup>3</sup>

Ms. T's hearing was held on July 30, 2012. Ms. T represented herself, and testified on her own behalf. Q Z of Consumer Direct assisted in representing Ms. T and testified on her behalf. Gerry Johnson represented the Division. Anita Halterman, Rae Norton, and Tammy Smith testified on behalf of the Division. The record was left open for 21 days following the hearing for post-hearing filings.

This decision concludes that Ms. T is eligible for PCA services due to her need for assistance in the areas of dressing, toilet use, bathing, light housekeeping, and grocery shopping. The Division's denial of her application is therefore reversed.

**II. Facts**

**A. Ms. T's Diagnoses and Relevant<sup>4</sup> Medical History**

Ms. T is 39 years old.<sup>5</sup> She lives alone.<sup>6</sup> She has diagnoses of cardiac arrhythmia due to Wolff-Parkinson-White syndrome,<sup>7</sup> asthma, obesity,<sup>8</sup> moderately severe esophagitis or

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<sup>1</sup> Exs. D1, E. The exact date Ms. T's application was submitted to the Division is not in the record.

<sup>2</sup> Ex. C; Ex.2.

<sup>3</sup> Ex. F1.

<sup>4</sup> The record in this case is some 500-600 pages in length, most of which consists of medical records. Although all of these records were reviewed by the administrative law judge, only those records relevant to Ms. T's current functional abilities are discussed in this decision.

<sup>5</sup> Ex. E1.

<sup>6</sup> Ex. E1.

<sup>7</sup> Ex. 3 p. 5.

<sup>8</sup> Ex. 5 p. 3.

Gastroesophageal Reflux Disease (GERD), esophageal hiatal hernia, hypertension, lower back pain, and bilateral knee pain.<sup>9</sup>

Ms. T first reported right knee pain to her doctor in approximately July 2011.<sup>10</sup> However, a medical report dated July 6, 2011 indicates that at that time Ms. T had a normal gait and stance, a full active range of motion in her shoulders, elbows, hips, and knees, and was able to get on and off the exam table "without much effort."<sup>11</sup> A radiograph of Ms. T's right knee taken on September 19, 2011 showed a small lateral tibial osteophyte but was otherwise unremarkable.<sup>12</sup> A medical examination conducted that date states that there was no swelling, warmth or erythema in her right knee, and that her gait and stance were normal.<sup>13</sup> The findings from another examination on November 16, 2011 were similar.<sup>14</sup>

Ms. T underwent an esophagogastroduodenoscopy on November 30, 2011 to help determine the extent of the problems with her digestive system.<sup>15</sup> Ms. T underwent laparoscopic Nissen fundoplication surgery, to remediate her GERD, on January 6, 2012.<sup>16</sup> The surgery was successful,<sup>17</sup> and Ms. T's physicians felt that she had recovered from the surgery by May 2012.<sup>18</sup>

Notes from medical examinations conducted on March 13 and March 26, 2012 indicate that, at the time, Ms. T had some early osteoarthritis of the right knee, but her knee was not swollen, it had good strength, and all relevant ligaments were intact.<sup>19</sup> However, notes from a medical examination on April 30, 2012 indicate that Ms. T was experiencing a lot of pain in her right knee at that time.<sup>20</sup> By June 1, 2012 Ms. T's pain was "out of control" and she was given a steroid injection in her right knee.<sup>21</sup> On June 13, 2012 Ms. T's knee was examined following a fall; it was found that

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<sup>9</sup> (Ex. 4 p. 3). Ms. T also suffers from anxiety, depression, obsessive-compulsive disorder, Post-Traumatic Stress Disorder (PTSD), memory lapses or loss, migraine headaches, and traumatic brain injury ( Ex. 5 p. 10, Ex. 3 pp. 11, 19. Ex. 5 p. 16, and Ex. 5 p. 21).

<sup>10</sup> Ex. K5.

<sup>11</sup> L7; Ex. 5 p. 31.

<sup>12</sup> Ex. 5 p. 20.

<sup>13</sup> Ex. L pp. 31-32.

<sup>14</sup> Ex. L40.

<sup>15</sup> Ex. 3 p. 19.

<sup>16</sup> Ex. 3 pp. 9-13.

<sup>17</sup> Ex. 3 p. 2.

<sup>18</sup> Ex. 3 p. 2.

<sup>19</sup> Ex. K5; Exs. L42 - L46; Exs. L53 - L70.

<sup>20</sup> Ex. 4 p. 3.

<sup>21</sup> Ex. 4 pp. 4-5.

she had strained her right medial collateral ligament.<sup>22</sup> She was fitted with a knee brace, which she was then expected to need for 6-8 weeks.<sup>23</sup>

**B. Ms. T's Functional Limitations as Explained by Her<sup>24</sup>**

Ms. T's knee pain worsened in March 2012.<sup>25</sup> She now wears a knee immobilizer, and although this reduces her knee pain, it also makes it more difficult to get around.<sup>26</sup> She testified that she cannot lift more than about 15 pounds, cannot bend very much, and cannot stand for very long.<sup>27</sup> She testified that it is very difficult for her to walk,<sup>28</sup> and that she requires assistance with using the toilet, getting in and out of the bath tub, and dressing herself.<sup>29</sup> Her neighbor must help her get dressed, cook meals, clean, do the laundry, go shopping, carry her groceries, help her remember to take her medications, and take her to her many medical appointments.<sup>30</sup> She believes that her functional limitations are now even greater than they were at the time of her PCA assessment in April 2012.<sup>31</sup>

**C. Ms. T's Functional Abilities as Determined by the Division**

On April 20, 2012 Ms. T was assessed for PCA eligibility by Rae Norton, R.N. of DSDS.<sup>32</sup> Ms. Norton's assessment is recorded and scored on the Consumer Assessment Tool or "CAT." The scores mentioned below are CAT scores assigned by Ms. Norton. Ms. Norton found that Ms. T has the following abilities and limitations with regard to her Activities of Daily Living (ADLs):<sup>33</sup>

Locomotion (walking): Ms. Norton reported that Ms. T was wearing a knee brace or immobilizer at the time of the assessment and was walking with a limp, but that she was walking inside and outside her home without assistance and was not using a cane or walker (scored 0/0).<sup>34</sup>

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<sup>22</sup> Ex. 4 p. 6.

<sup>23</sup> Ex. K10.

<sup>24</sup> Ms. T submitted a summary (Ex. 7), specific to each of the Activities of Daily Living (ADLs) and Instrumental Activities of Daily Living (IADLs) at issue, stating how she feels her functional abilities differ from those reported by the Division's assessments. In order to avoid duplication, those specifics are reserved for the Discussion section of this decision, below.

<sup>25</sup> Exs. C1, 2-1.

<sup>26</sup> U T hearing testimony; Ex. C-2; Ex. 2-2.

<sup>27</sup> U T hearing testimony; Ex. C-2; Ex. 2-2.

<sup>28</sup> Most of the issues in this case concern whether Ms. T can perform particular activities herself "with difficulty," or whether she actually requires physical assistance with those activities (see Section III, below).

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> Exs. C2, 2-2.

<sup>32</sup> Ex. E.

<sup>33</sup> Exs. E4 - E26; see 7 AAC 125.199(1).

<sup>34</sup> Ex. E7.

Dressing: Ms. Norton reported that Ms. T told her that it was difficult and painful to get dressed, and that it took her a long time, but that she could dress independently; the assessor reported that Ms. T appeared to have a range of motion (ROM) sufficient for dressing (scored 0/0).<sup>35</sup>

Eating: The assessor reported that Ms. T is independent with regard to eating (scored 0/0).<sup>36</sup>

Toileting: The assessor reported that Ms. T had recently had some accidents due to changes in medication, and that transferring to the toilet was uncomfortable for her due to knee pain, but that she could use the toilet independently (scored 0/0).<sup>37</sup>

Personal Hygiene: The assessor reported that Ms. T is able to perform personal hygiene and grooming tasks independently based on Ms. T's report and based on the assessor's estimate of her functional abilities (scored 0/0).<sup>38</sup>

Bathing: The assessor reported that Ms. T told her she was able to take a bath every other day without using any assistive device. (scored 0/0).<sup>39</sup>

The assessment of April 20, 2012 also scored Ms. T as follows with regard to her Instrumental Activities of Daily Living (IADLs):<sup>40</sup> independent in light meal preparation (score 0/0); independent with difficulty and requiring setup assistance with main meal preparation (score 1/2); independent with light housework (score 0/0); independent with difficulty and requiring setup assistance with routine housework (score 1/2); independent with grocery shopping (score 0/0); and independent with difficulty and requiring setup assistance with laundry (score 1/2).

### **III. Discussion**

#### **A. The PCA Program - Overview**

The Medicaid program provides personal care services (PCA) to eligible persons; "[t]he purpose of personal care services is to provide to a recipient *physical assistance* with activities of daily living (ADL), *physical assistance* with instrumental activities of daily living (IADL), and other services based on the *physical condition* of the recipient . . . ."<sup>41</sup> [emphasis added].

Accordingly, "[t]he department will not authorize personal care services for a recipient if the

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<sup>35</sup> Ex. E8.  
<sup>36</sup> Ex. E9.  
<sup>37</sup> Ex. E9.  
<sup>38</sup> Ex. E10.  
<sup>39</sup> Ex. E11.  
<sup>40</sup> Ex. E26.  
<sup>41</sup> 7 AAC 125.010(a).

assessment shows that the recipient only needs assistance with supervision, cueing, and setup in order to independently perform an ADL or IADL."<sup>42</sup>

**B. Alaska's PCA Program - Use of the Consumer Assessment Tool (CAT)**

The Department conducts an assessment for PCA services using the Consumer Assessment Tool or "CAT."<sup>43</sup> The goal of the assessment process is to determine the level of physical assistance that an applicant or recipient requires in order to perform their activities of daily living (ADLs) and instrumental activities of daily living (IADLs).<sup>44</sup> The CAT seeks to make the assessment process more objective by attempting to standardize the assessment of an applicant or recipient's functional impairment.<sup>45</sup>

The ADLs coded or scored by the CAT are body mobility, transfers (non-mechanical), transfers (mechanical), locomotion (in room), locomotion (between levels), locomotion (to access apartment or living quarters), dressing, eating, toilet use, personal hygiene, personal hygiene-shampooing, and bathing.<sup>46</sup> In addition, the CAT codes or scores five other ADL-like activities which are not technically ADLs. These are medication, vital signs/glucose levels, dressings/bandages/oxygen, sterile wound care, and documentation.

The CAT numerical coding system has two components. The first component is the *self-performance code*. These codes rate how capable a person is of performing a particular activity of daily living (ADL). The possible codes are **0** (the person is independent and requires no help or oversight); **1** (the person requires supervision); **2** (the person requires limited assistance<sup>47</sup>); **3** (the person requires extensive assistance<sup>48</sup>); **4** (the person is totally dependent<sup>49</sup>). There are also codes

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<sup>42</sup> 7 AAC 125.020(e). This regulation defines "cueing" as "daily verbal or physical guidance provided to a recipient that serves as a signal to the recipient that the recipient needs to perform an activity;" "setup" as "arranging items for use or getting items ready for use so that the recipient can independently perform an ADL or IADL;" and "supervision" as "observing and giving direction, as needed, so that the recipient can independently perform an ADL or IADL." *Id.*

<sup>43</sup> 7 AAC 125.020(b). The CAT has been adopted into DHSS regulations by reference. See 7 AAC 160.900(d)(6).

<sup>44</sup> See 7 AAC 125.010(a).

<sup>45</sup> Ex. E.

<sup>46</sup> See Division of Senior and Disability Services' *Personal Care Assistance Service Level Computation* (accessed online at <http://www.hss.state.ak.us/dsds/pca/documents/PCA%20Service%20Computation.pdf>) (accessed January 8, 2013); see also Exs. E6 - E11.

<sup>47</sup> Pursuant to 7 AAC 125.020(a)(1), limited assistance with an ADL "means a recipient, who is highly involved in the activity, receives direct physical help from another individual in the form of guided maneuvering of limbs, including help with weight-bearing when needed."

<sup>48</sup> Pursuant to 7 AAC 125.020(a)(2), extensive assistance with an ADL "means that the recipient is able to perform part of the activity, but periodically requires direct physical help from another individual for weight-bearing support or full performance of the activity."

<sup>49</sup> Pursuant to 7 AAC 125.020(a)(3), dependent as to an ADL, or dependent as to and IADL, "means the recipient cannot perform any part of the activity, but must rely entirely upon another individual to perform the activity."

that are not treated as numerical scores for purposes of calculating a service level: **5** (the person requires cueing); and **8** (the activity did not occur during the past seven days).

The second component of the CAT scoring system is the *support code*. These codes rate the degree of assistance that a person requires for a particular activity of daily living (ADL). The possible codes are **0** (no setup or physical help required); **1** (only setup help required); **2** (one person physical assist required); **3** (two or more person physical assist required). Again, there are additional codes that do not add to the service level: **5** (cueing required); and **8** (the activity did not occur during the past seven days).

The CAT also codes or scores certain activities known as "instrumental activities of daily living" (IADLs).<sup>50</sup> These are light meal preparation, main meal preparation, light housekeeping, laundry (in-home), laundry (out-of-home), and shopping. Finally, the CAT codes or scores one other IADL-like activity which is not technically an IADL (oxygen maintenance).

The CAT scores IADLs slightly differently than ADLs.<sup>51</sup> The *self-performance codes for IADLs* are **0** (independent either with or without assistive devices - no help provided); **1** (independent with difficulty; the person performed the task, but did so with difficulty or took a great amount of time to do it); **2** (assistance / done with help - the person was somewhat involved in the activity, but help in the form of supervision, reminders, or physical assistance was provided); and **3** (dependent / done by others - the person is not involved at all with the activity and the activity is fully performed by another person). There is also a code that is not treated as a numerical score for purposes of calculating a service level: **8** (the activity did not occur).

The *support codes* for IADLs are also slightly different than the support codes for ADLs.<sup>52</sup> The support codes for IADLs are **0** (no support provided); **1** (supervision / cueing provided); **2** (setup help); **3** (physical assistance provided); and **4** (total dependence - the person was not involved at all when the activity was performed). Again, there is an additional code that does not add to the service level: **8** (the activity did not occur).

If a person receives self-performance codes of 2, 3, or 4 and support codes of 2, 3, or 4 with regard to any of the ADLs of transfers, locomotion, eating, toilet use, dressing, or bathing, then the person is eligible to receive PCA services.<sup>53</sup> Alternatively, if a person receives self-performance codes of 2, 3, or 4 and support codes of 3 or 4 with regard to any of the IADLs of light meal

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<sup>50</sup> Ex. E26.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> Ex. E31.

preparation, main meal preparation, light housework, routine housework, grocery shopping, or laundry, then the person is eligible to receive PCA services.<sup>54</sup>

***C. Is Ms. T Eligible to Receive PCA Services, and if so, How Should her ADLS and IADLS be Scored?***

Ms. T provided a written statement specifying 13 particular activities as to which she believes her CAT was incorrectly scored.<sup>55</sup> These areas are (1) locomotion and walking, (2) dressing / undressing, (3) eating, (4) toileting, (5) personal hygiene and grooming, (6) bathing, (7) medical equipment maintenance, (8) light meals, (9) main meals, (10) light housework, (11) routine housework, (12) grocery shopping, and (13) laundry.<sup>56</sup> These activities will be addressed below in the order stated.

***1. Locomotion / Walking***

For the ADL of locomotion, PCA time is allowed when a person requires assistance with walking (whether with the support of a walker, cane, gait belt, braces, crutches, or manual wheelchair), either between different locations in the recipient's home, or outside the home to keep a medical or dental appointment; PCA time is also allowed when walking and simple exercises have been prescribed by a physician.<sup>57</sup>

The Division found Ms. T to be independent as to locomotion (CAT score 0/0). Ms. T testified that it is extremely difficult for her to walk, and that her knee pain and her use of the knee brace had continued through the date of the hearing in July 2012.

The evidence indicates that walking is very difficult and painful for Ms. T. However, by her own admission, Ms. T is still able to, and does, walk without assistance or supervision despite the pain and difficulty. Accordingly, a score of 0/0 (independent) is appropriate for the ADL of locomotion.

***2. Dressing and Undressing***

For the ADL of dressing, PCA time is allowed for the donning, fastening, unfastening, and removal of the recipient's street clothing, support hose, or prosthesis.<sup>58</sup> The Division found Ms. T to be independent as to dressing (CAT score 0/0) based on what Ms. Norton said Ms. T told her, and what she herself observed, at the assessment. Ms. T asserts, however, that because her knee is

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<sup>54</sup> *Id.*

<sup>55</sup> Ex. 7.

<sup>56</sup> Ex. 7.

<sup>57</sup> 7 AAC 125.030(b)(3).

<sup>58</sup> 7 AAC 125.030(b)(4).

immobilized with a knee brace she needs assistance in putting her feet through her underwear and pants and putting on her socks and shoes, and that her neighbor must help her get dressed.<sup>59</sup>

Notes from two medical examinations conducted about one month prior to Ms. T's April 2012 assessment indicate that, at that time, Ms. T's knee was not swollen, it had good strength, and that all relevant ligaments were intact.<sup>60</sup> On the other hand, notes from an examination only ten days after this assessment show that Ms. T was then experiencing a lot of knee pain and that her doctors and physical therapists felt it necessary to tape the knee. Although it is a close question, it is more likely than not that Ms. T requires a limited assist by one person for dressing. Accordingly, a score of 2/2 is appropriate for the ADL of dressing.

### 3. Eating and Drinking

For the ADL of eating and drinking, PCA time is allowed for feeding through a feeding tube, enteral feeding, and supervising the eating and drinking of a recipient who has swallowing, chewing, or aspiration difficulties.<sup>61</sup> The Division found Ms. T to be independent as to eating (CAT score 0/0). Ms. T seeks a score of 2/2 (limited physical assistance by one person).

Ms. T asserts that she has difficulty swallowing due to her January 2012 esophageal surgery and requires supervision to make sure that she does not choke.<sup>62</sup> However, notes from a medical examination on March 13, 2012 state that, at that time, Ms. T was denying any dysphagia or odynophagia (difficulty or pain when swallowing).<sup>63</sup> Ms. T had no motive to be other than completely honest with her doctors, so this statement is given significant weight. Accordingly, it is more likely than not that Ms. T is not at risk for choking and so does not require supervision while eating. Accordingly, a score of 0/0 is appropriate for the ADL of eating.

### 4. Toilet Use

For the ADL of toilet use, PCA time is, by regulation, allowed only to assist with moving to and from the toilet or urinal and transfers on and off the toilet.<sup>64</sup> The CAT's definition of "toilet

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<sup>59</sup> Ex. 7-1.

<sup>60</sup> Ex. K5; Exs. L42 - L46; Exs. L53 - L70.

<sup>61</sup> 7 AAC 125.030(b)(5).

<sup>62</sup> Ex. 7-1.

<sup>63</sup> Ex. 5 p. 6.

<sup>64</sup> 7 AAC 125.030(b)(6). For reasons that do not appear in the record, the regulation does not cover assisting the recipient with necessary personal hygiene after using the toilet. The PCA regulation for personal hygiene, 7 AAC 125.030(b)(7), likewise fails to cover such necessary activities.



use" is somewhat broader, encompassing post-toileting hygiene and clothing adjustments.<sup>65</sup> Based on these definitions the Division found Ms. T to be independent as to toilet use (CAT score 0/0).

Ms. Norton's assessment and testimony was that Ms. T can transfer on and off the toilet without assistance, although this caused Ms. T some discomfort.<sup>66</sup> Ms. Norton's assessment also indicates that Ms. T told her that she did not require assistance with toileting. Ms. T now asserts, however, that she needs assistance with clean-up after accidents, as well as needing help to pull her underwear and pants back up.<sup>67</sup> Ms. T seeks a score of 2/2 (limited physical assistance by one person).

The Division's regulations define "limited assistance" to be when "a recipient, who is highly involved in the activity, receives direct physical help from another individual in the form of guided maneuvering of limbs, including help with weight-bearing when needed."<sup>68</sup> Given Ms. T's use of a knee brace, it is more likely than not that she requires limited physical assistance in getting her clothes on and off in order to use the toilet. Accordingly, a score of 2/2 is appropriate for the ADL of toileting.

#### 5. Personal Hygiene

For the ADL of personal hygiene, PCA time is allowed for washing and drying the face and hands, nail care, skin care, mouth and teeth care, brushing and combing the hair, shaving when done separately from bathing, and shampooing the hair when done separately from bathing.<sup>69</sup> The Division found Ms. T to be independent as to personal hygiene (CAT score 0/0). Ms. T asserts that she requires assistance shaving her legs and applying lotions to her legs and back.<sup>70</sup>

The notes from the assessment do not indicate that Ms. Norton questioned Ms. T about her ability to reach her back or lower extremities. Difficulty accomplishing these activities would be consistent with Ms. T's knee pain and use of a knee brace. Accordingly, it is more likely than not that Ms. T requires limited physical assistance with shaving her legs and applying lotions to her legs and back. A score of 2/2 is therefore appropriate for the ADL of personal hygiene.<sup>71</sup>

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<sup>65</sup> The CAT form defines toilet use as "[h]ow person uses the toilet room (or commode, bedpan, urinal); transfers on/off toilet, *cleanses* . . . manages ostomy or catheter, *adjusts clothes*" (Ex. E9, emphasis added).

<sup>66</sup> Ex. E9; Rae Norton hearing testimony.

<sup>67</sup> Ex. 7-1.

<sup>68</sup> 7 AAC 125.020(a)(1).

<sup>69</sup> 7 AAC 125.030(b)(7).

<sup>70</sup> Ex. 7-1.

<sup>71</sup> Note that, under the CAT, scoring points in the personal hygiene category cannot, by itself, *qualify* someone to receive PCA services (Ex. E31). However, once a person qualifies for PCA services by scoring sufficient points in another category, points scored in the personal hygiene category are then included in the determination of the total amount of PCA time to which the applicant is entitled. *Id.*

6. Bathing

For the ADL of bathing, PCA time is allowed for "the taking of a full-body bath, shower, or sponge bath and the required transfers in and out of the bathtub or shower."<sup>72</sup> The Division found Ms. T to be independent as to bathing (CAT score 0/0). Ms. T asserts that she needs help dressing and undressing for bathing, taking her knee brace on and off for bathing, and getting in and out of the bathtub while keeping her knee straight.<sup>73</sup> Ms. T seeks a score of 2/2 (one person physical assist for transfer only).

The "set-up" portion of bathing (dressing and undressing and taking her knee brace on and off) is not included in the PCA regulation. However, given her knee pain and brace, Ms. T's testimony that she requires limited assistance getting in and out of the bathtub while keeping her knee straight is credible and shows that it is more likely than not that she requires such assistance. A score of 2/2 is therefore appropriate for the ADL of bathing.

7. Medical Equipment Maintenance

Ms. T seeks a score of 2/2 for adjusting her knee brace. However, there is no *general* PCA services category for "medical equipment maintenance," and there is no *specific* PCA services category for adjustment of a knee brace. Accordingly, under the PCA scoring system, Ms. T is not entitled to receive a score for knee brace adjustment.

8. Light Meals

The PCA regulations define the IADL of light meal preparation as the preparation, serving, and cleanup in the recipient's home of any meal that is essential to meet the health needs of the recipient, and that is not the main meal of the day.<sup>74</sup> The Division found Ms. T to be independent as to light meals (CAT score 0/0), noting that Ms. T reported to the assessor that she could sit on a stool while cooking.<sup>75</sup> Ms. T seeks a score of 2/2, asserting that she cannot stand for very long and has difficulty moving around the kitchen with her knee in a brace. While Ms. T's testimony regarding these difficulties is credible, this results only in a score of 1/0 (independent with difficulty).<sup>76</sup>

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<sup>72</sup> 7 AAC 125.030(b)(8). The definition of bathing contained in the CAT is essentially identical (*see* Ex. E11).

<sup>73</sup> Ex. 7-1.

<sup>74</sup> 7 AAC 125.030(c)(1).

<sup>75</sup> Exs. E9, E26.

<sup>76</sup> Note that the CAT scores IADLs slightly differently than ADLs (see discussion at p. 6, above).

9. Main Meals

The PCA regulations define the IADL of main meal preparation as the preparation, serving, and cleanup in the recipient's home of one main meal per day that is essential to meet the health needs of the recipient.<sup>77</sup> The Division found Ms. T to be "independent with difficulty" as to main meals (CAT score 1/2), requiring set-up help only. Ms. T seeks a score of 2/2, again asserting that she cannot stand for very long and has difficulty moving around the kitchen with her knee in a brace. Ms. T's testimony regarding these difficulties is credible, but again this results only in a score of 1/0 (independent with difficulty).

10. Light Housework

The PCA regulations define the IADL of "light housekeeping" as (1) picking up, dusting, vacuuming, and floor-cleaning of the living spaces used by the recipient; (2) the cleaning of the kitchen and dishes used for preparation of the recipient's meals; (3) the cleaning of any bathroom used by recipient; (4) making the recipient's bed; (5) removing the recipient's trash; and (6) caring for the recipient's service animal.<sup>78</sup> The Division found Ms. T to be independent as to light housework (CAT score 0/0). Ms. T seeks a score of 2/3 (limited physical assistance).<sup>79</sup> She asserts that, until her knee heals and her knee brace comes off, she needs assistance vacuuming, mopping, and doing dishes. Given the knee problems that Ms. T had at the time of the assessment and at hearing, her testimony on this point is credible. A score of 2/3 is therefore appropriate for the IADL of "light housekeeping."

11. Routine Housework

The Division found Ms. T to be "independent with difficulty," and to need help with set-up, as to routine housework (CAT score 1/2). Ms. T seeks a score of 2/3 (limited physical assistance).<sup>80</sup>

Although *the CAT* differentiates between "light housework" and "routine housework," *the PCA regulation* includes all the constituent activities of these two "CAT categories" within a single definition of "light housekeeping."<sup>81</sup> Because Ms. T has already been scored 2/3 for the IADL of "light housekeeping" (above), no separate score is awarded here.

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<sup>77</sup> 7 AAC 125.030(c)(2).

<sup>78</sup> 7 AAC 125.030(c)(3).

<sup>79</sup> Ms. T's summary states that she is requesting a score of "3/2" with regard to both light and routine housework (Ex. 7-2). Such a score would be nonsensical in the context of an IADL (see Ex. E26), so this is most likely a typographical error. However, Ms. T's narrative at Ex. 7-2 describes an asserted need for limited physical assistance (score of 2/3), and so her request will be interpreted accordingly.

<sup>80</sup> See preceding footnote.

<sup>81</sup> 7 AAC 125.030(c)(3).

### 12. Grocery Shopping

The PCA regulations define the IADL of grocery shopping as shopping in the vicinity of a recipient's residence for groceries and other household items required for the health and maintenance of the recipient, and prescribed drugs and medical supplies required by the recipient.<sup>82</sup> The Division found Ms. T to be independent as to grocery shopping (CAT score 0/0). Ms. T seeks a score of 2/3 (limited physical assistance), asserting that she cannot walk any significant distance and has previously fallen while shopping because her knee gave out.<sup>83</sup> Again, given the knee problems that Ms. T had at the time of the assessment and at hearing, her testimony on this point is credible. She should therefore receive a score of 2/3 for the IADL of grocery shopping.

### 13. Laundry

The PCA regulations define the IADL of laundry as the changing of a recipient's bed linens and the in-home or out-of-home laundering of a recipient's bed linens and clothing.<sup>84</sup> The Division found Ms. T to be "independent with difficulty," and to require help with set-up, as to laundry (CAT score 1/2). Ms. T seeks a score of 2/3 (limited physical assistance), asserting that, given her knee brace, she needs help going up and down the stairs with a clothes basket full of clothes to her apartment's downstairs laundry room.<sup>85</sup>

Ms. T's testimony regarding her need for assistance in getting to and from the laundry room is credible. However, this specific activity appears to be most properly classified as locomotion. A score of 0/0 has previously been found appropriate for the ADL of locomotion. Ms. T did not assert that she requires assistance with those aspects of laundry not involving locomotion. Accordingly, the Division's CAT score of 1/2 is appropriate for the IADL of laundry.

## **IV. Conclusion**

Ms. T has scored a 2/2 with regard to the ADLs of dressing, toilet use, and bathing. A score of 2/2 with regard to any one of these three ADLs qualifies her to receive PCA services. In addition, Ms. T has scored a 2/3 with regard to the IADLs of light housework and grocery shopping. A score of 2/3 with regard to any one of these two IADLs qualifies her to receive PCA services.

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<sup>82</sup> 7 AAC 125.030(c)(5).

<sup>83</sup> Ex. 7-1.

<sup>84</sup> 7 AAC 125.030(c)(4).

<sup>85</sup> Ex. 7-2.

In summary, Ms. T is eligible for PCA services due to her demonstrated need for assistance in the areas of dressing, toilet use, bathing, light housekeeping, and grocery shopping. The Division's determination that Ms. T is not eligible for PCA services is therefore reversed.<sup>86</sup>

DATED this 9th day of January, 2013.

*Signed* \_\_\_\_\_  
Jay Durych  
Administrative Law Judge

## Adoption

The undersigned, by delegation from of the Commissioner of Health and Social Services, adopts this Decision, under the authority of AS 44.64.060(e)(1), as the final administrative determination in this matter.

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

DATED this 14<sup>th</sup> day of February, 2013.

By: *Signed* \_\_\_\_\_  
Jared C. Kosin, J.D., M.B.A.  
Executive Director  
Office of Rate Review, DHSS

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

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<sup>86</sup> This decision does not calculate the hours per week of PCA services which Ms. T is eligible to receive. If Ms. T disagrees with the Division's calculation of the specific number of hours of PCA services for which she is eligible, she may request a new hearing on that issue.