

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

In the Matter of:)	
)	
Q Y)	OAH No. 13-0525-MDS
)	HCS Case No.
_____)	Medicaid ID No.

DECISION

I. Introduction

Ms. Q Y receives Medicaid Personal Care Assistant (PCA) services. On February 1, 2013 the Division of Senior and Disabilities Services (DSDS or Division) performed an assessment to determine Ms. Y's continuing need for PCA services.¹ On March 21, 2013 the Division notified Ms. Y's representative² that her PCA service level was being reduced from 34.75 hours per week to 27 hours per week effective March 31, 2013.³ Ms. Y's representative requested a hearing on April 8, 2013.⁴

Ms. Y's hearing was held on May 23 and July 11, 2013. Ms. Y attended the hearing and testified.⁵ Q J (the recipient's power-of-attorney holder) attended the hearing, represented Ms. Y, and testified on her behalf. Ms. Y's son, B J, attended the hearing but did not testify. S F, H T, K L, and L G of Consumer Direct Alaska attended the hearing and assisted in representing the recipient. Shelly Boyer-Wood attended the hearing and represented the Division. Susan Findley, R.N. attended the hearing and testified on the Division's behalf. Angelika Fey-Merritt participated by phone and testified on the Division's behalf. The record closed at the end of the July 11 hearing.

This decision concludes that the Division's scoring of Ms. Y's activities of daily living was correct in the areas of bed mobility, toileting, personal hygiene, and bathing, but that Ms. Y is eligible for additional PCA services in the areas of transfers, locomotion, dressing, and eating. Accordingly, the Division's decision is affirmed in part and reversed in part.

¹ Ex. E.
² Ms. Y is 61 years old and appointed Q J to be her representative via power-of-attorney (Ex. E2).
³ Ex. D1.
⁴ Ex. C.
⁵ Ms. Y was called as a witness by the Division and testified only briefly.

II. Facts

A. Ms. Y's Diagnoses and Relevant Medical History

Ms. Y is 61 years old.⁶ She lives in a one level home with eight other members of her extended family (four other adults and four children).⁷ She has primary diagnoses of depressive disorder NEC and hypertension, and secondary diagnoses of lower back pain, sprains and strains of the shoulder and upper arm, and urinary incontinence.⁸ Her left leg is getting shorter and she has pain in her left side.⁹ On March 6, 2013 the physician's assistant who treats Ms. Y recommended that she walk once each day for thirty minutes with the assistance of her PCA, and that this be continued for one year.¹⁰

B. Ms. Y's Functional Limitations as Explained by her Family¹¹

Ms. Y's PCA reports that she requires weight-bearing assistance with transfers and requires assistance with transfers four to five times per day.¹² The PCA states that Ms. Y has balance problems and an unsteady gait, and requires weight-bearing assistance five to six times each day when walking and when using her walker.¹³ With regard to dressing, the PCA reports that Ms. Y is unable to lift or bend her arms so as to reach her back, and that she requires assistance with putting shirts on over her head, buttoning shirts, pulling up her pants, zipping zippers, putting on jackets, and putting on and tying / fastening her shoes.¹⁴ With regard to eating, the PCA states that, due to pain in her shoulder, arms, and hands, Ms. Y is unable to lift her hands or eating utensils up to her mouth to feed herself, and that she must be watched while eating because of past choking problems.¹⁵ He believes that her functional limitations are basically the same as they were at the time of her prior PCA assessment in February 2012.¹⁶

C. Ms. Y's Functional Abilities as Documented by the CAT

On February 1, 2013 Ms. Y was reassessed for continuing PCA eligibility by Eileen Heaston, R.N. of DSDS.¹⁷ Ms. Y's assessment was recorded and scored by Ms. Heaston on the

⁶ Ex. E1.

⁷ Ex. E1.

⁸ Ex. E3; Ex. 2 p. 2.

⁹ Exs. E3, E22.

¹⁰ Ex. 2 p. 1.

¹¹ To avoid unnecessary repetition, some evidence pertaining directly to contested CAT scores is omitted from this section and discussed in the appropriate subsection of the "Discussion" section (Section III, below).

¹² Ex. 1 p. 1.

¹³ Ex. 1 p. 2.

¹⁴ Ex. 1 p. 2.

¹⁵ Ex. 1 p. 2.

¹⁶ Ex. 1 pp. 1 - 2.

¹⁷ Ex. E.

Consumer Assessment Tool or "CAT."¹⁸ Ms. Heaston found that Ms. Y has the following abilities and limitations with regard to her Activities of Daily Living (ADLs), and assigned Ms. Y the following CAT scores:¹⁹

Bed Mobility: Ms. Heaston reported that Ms. Y told her through an interpreter that she spends most of the time lying in bed and that she needs help to sit up and to stand up. Ms. Heaston reported that she observed Ms. Y turn from her back to her side independently, but that she required assistance to move to the edge of the bed and to stand up. She observed Ms. Y stand up by holding on to her PCA as he pulled her up (scored 0/0, frequency 0/0).²⁰

Transfers: Ms. Heaston reported that Ms. Y told her through an interpreter that she needs help to stand up and uses her walker to assist. She observed Ms. Y stand up by holding on to her PCA as he pulled her up, and by pulling herself up using her walker (scored 2/2, frequency 2/7).²¹

Locomotion: Ms. Heaston reported that Ms. Y told her through an interpreter that she needs help to walk in the house, but that there was no mention of recent falls. She observed Ms. Y walk a short distance from her bed to the toilet with an unsteady gait using assistance from her son / PCA (scored 2/2, frequency 2/7).²²

Dressing: Ms. Heaston reported that Ms. Y's son / PCA told her through an interpreter that Ms. Y needs assistance to get dressed. Ms. Heaston did not observe Ms. Y dressing but reported that Ms. Y's left side was weak and that her arms had a limited range of motion (ROM) (scored 2/2, frequency 2/7).²³

Eating: Ms. Heaston reported that Ms. Y told her through an interpreter that she is fed by her son, and her son / PCA confirmed this. Ms. Heaston observed that Ms. Y's hands and arms were shaky, that she needed assistance with all meal preparation, and that she had difficulty raising her hands to her mouth (scored 2/2, frequency 3/7).²⁴

Toileting: Ms. Heaston reported that Ms. Y's son / PCA told her through an interpreter that Ms. Y is incontinent of both bladder and bowel, needs help cleaning-up due

¹⁸ Ex. E.

¹⁹ Exs. E4 - E28; see 7 AAC 125.199(1).

²⁰ Ex. E6.

²¹ Ex. E6.

²² Ex. E7.

²³ Ex. E8.

²⁴ Ex. E9.

to this, needs diaper or clothing changes daily because of this, and needs assistance transferring on and off the toilet. Ms. Heaston observed that there were no assistive devices near the toilet, and that she observed Ms. Y transfer on and off the toilet with assistance from her son / PCA (scored 3/2, frequency 6/7).²⁵

Personal Hygiene: Ms. Heaston reported that Ms. Y's son / PCA told her through an interpreter that Ms. Y requires assistance with personal hygiene and grooming tasks. Ms. Heaston did not observe any personal hygiene activities but noted that Ms. Y had demonstrated weakness and limited range of motion in her upper extremities during the assessment (scored 2/2, frequency 1/7).²⁶

Bathing: Ms. Heaston reported that Ms. Y told her through an interpreter that she needs assistance to get in and out of the shower. Ms. Y's son / PCA reported that she must shower twice a day due to incontinence. Ms. Heaston observed that Ms. Y's bathtub was narrow and high off the ground and noted that Ms. Y had demonstrated weakness and limited range of motion in her upper extremities during the assessment (scored 3/2, frequency 1/7).²⁷

The assessment of February 1, 2013 also scored Ms. Y as follows with regard to her Instrumental Activities of Daily Living (IADLs):²⁸ totally dependent in light meal preparation (score 3/4), main meal preparation (score 3/4), telephone use (score 3/4), light housework (score 3/4), managing finances (score 3/4), routine housework (score 3/4), grocery shopping (score 3/4), and laundry (score 3/4).

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 (ADLs), *physical assistance* with instrumental activities of daily living (IADLs), and other services based on the *physical condition* of the recipient"²⁹ [emphasis added]. Accordingly, "[t]he department will not authorize personal care services for a recipient if the

²⁵ Ex. E9.

²⁶ Ex. E10.

²⁷ Ex. E11.

²⁸ Ex. E27.

²⁹ 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."³⁰

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."³¹ 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).³² The CAT seeks to make the assessment process more objective by attempting to standardize the assessment of an applicant or recipient's functional impairment.³³

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.³⁴

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 CAT codes for ADLs are **0** (the person is independent and requires no help or oversight); **1** (the person requires supervision); **2** (the person requires limited assistance³⁵); **3** (the person requires extensive assistance³⁶); **4** (the person is totally dependent³⁷). There are also codes 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).

³⁰ 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.*

³¹ 7 AAC 125.020(b). The CAT has been adopted into DHSS regulations by reference. *See* 7 AAC 160.900(d)(6).

³² *See* 7 AAC 125.010(a).

³³ Ex. E.

³⁴ Exs. E6 - E12.

³⁵ 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."

³⁶ 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."

³⁷ 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."

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).³⁸ These are light meal preparation, main meal preparation, light housekeeping, laundry, and grocery shopping. The CAT scores IADLs slightly differently than ADLs.³⁹ 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.⁴⁰ The support codes for IADLs are 0 (no support provided); 1 (supervision / cueing provided); 2 (set-up 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.⁴¹ 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 preparation, main meal preparation, light housework, routine housework, grocery shopping, or laundry, then the person is eligible to receive PCA services.⁴²

³⁸ Ex. E27.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Ex. E32.

⁴² *Id.*

C. *Were Ms. Y's ADLs Scored Correctly?*

Ms. Y provided a written statement prior to hearing specifying five particular ADLs as to which she believed her CAT was incorrectly scored.⁴³ However, at hearing, her witness and representative (Ms. J) testified as to all eight ADLs. Accordingly, this decision will address all eight ADLs.

1. Body Mobility

For the ADL of body mobility, PCA time is allowed when a *non-ambulatory* person requires physical assistance to reposition in a bed or chair, or to perform range of motion and stretching exercises.⁴⁴ The Division did not award Ms. Y any PCA time for bed mobility because it found, based on the CAT, that Ms. Y is ambulatory.⁴⁵ Ms. Y does not dispute that she is ambulatory.⁴⁶ The Division's regulation (7 AAC 125.030(b)(1)) only allows PCA time for bed mobility when the recipient is non-ambulatory.⁴⁷ Accordingly, applying the Division's regulation to the undisputed facts, Ms. Y is not eligible for PCA time for body mobility. The Division was therefore correct to assign Ms. Y a CAT score of 0/0 as to body mobility.

2. Transfers

For the ADL of transferring, PCA time is allowed when a person requires physical assistance to move between one surface and another (including to or from a bed, chair, or wheelchair), and/or when a person requires physical assistance to move from a lying or sitting position to a standing position.⁴⁸ The Division found that Ms. Y requires limited assistance from one person for transfers (CAT score 2/2).⁴⁹ Ms. Y asserts that she requires extensive assistance from one person for transfers (CAT score 3/2).⁵⁰

In the context of this case, under the CAT scoring system, the dividing line between limited assistance and extensive assistance with transfers is whether the recipient was receiving weight-bearing assistance two times per week or (instead) three times per week.⁵¹ The score assigned by the assessor implies that Ms. Y needs weight-bearing assistance no more than twice per week. However, Ms. J testified that she generally requires weight-bearing assistance with transfers, and

⁴³ Ex. 1.
⁴⁴ 7 AAC 125.030(b)(1); Ex. B2.
⁴⁵ Ex. D2.
⁴⁶ Ex. 1 p. 1.
⁴⁷ Ex. B5.
⁴⁸ 7 AAC 125.030(b)(2).
⁴⁹ Ex. E6.
⁵⁰ Ex. 1 p. 1; hearing testimony of Ms. J.
⁵¹ Ex. E6.

the only transfer *actually observed* by the assessor involved weight-bearing assistance.⁵² Even if the CAT is given the same weight as the testimony of Ms. Y's witness, as a matter of statistical probability, the fact that *only* weight-bearing assistance was observed during the assessment makes it more probable than not that *most* of Ms. Y's transfers involve weight-bearing assistance. Accordingly, the preponderance of the evidence indicates that Ms. Y requires weight-bearing transfers at least three times per week, and that this ADL should have been scored as requiring extensive one-person assistance (a CAT score of 3/2, resulting in 3.75 minutes per transfer).⁵³

With regard to frequency, the assessor found, apparently based on the fact that Ms. Y stated that she spends "most" of the day in bed, that only two transfers per day were sufficient (i.e. one transfer out of bed and one transfer back into bed for the night).⁵⁴ Ms. Y asserts that she transfers six times per day for moving to the kitchen for meals, to the living room for sitting, and for her PCA-assisted walking exercise.⁵⁵

The frequency for transfers assigned by the Division represents only one "trip" to and from bed each day. Since the assessor did not testify at hearing, it is not possible to know the rationale behind her finding that one trip out of bed per day is sufficient. However, Ms. Y's assertion that she transfers six times per day on average is supported by the testimony of Ms. J. In addition, it is consistent with Ms. Y's needs at the time of her prior assessment.⁵⁶ Accordingly, the preponderance of the evidence indicates that Ms. Y requires transfers six times per day.

3. Locomotion

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.⁵⁷ The Division found that Ms. Y requires limited assistance from one person for locomotion (CAT score 2/2). Ms. Y asserts that she requires extensive assistance from one person for locomotion (CAT score 3/2).⁵⁸

⁵² Ex. E-6. Ms. Heaston was not available at hearing to explain this patent ambiguity.

⁵³ See PCA score-to-minutes formula reproduced at Ex. D-7.

⁵⁴ Ex. E6.

⁵⁵ Ex. 1 p. 1; hearing testimony of Ms. J.

⁵⁶ Ex. F6.

⁵⁷ 7 AAC 125.030(b)(3).

⁵⁸ Ex. 1 p. 1.

In the context of this case, under the CAT scoring system, the dividing line between limited assistance and extensive assistance with locomotion (as with transfers, discussed above) is whether the recipient was receiving weight-bearing assistance two times per week or (instead) three times per week.⁵⁹ The assessor's notes state that Ms. Y receives assistance with locomotion, but do not contain any finding as to whether this assistance was weight-bearing or not. However, Ms. Y's witnesses testified that, due to her balance problems, she almost always requires weight-bearing assistance with locomotion.⁶⁰ Due to the lack of detail on this issue in the assessment, and the fact that the assessor was not available to cure this deficiency at hearing, Ms. J's testimony on this issue is more credible than the Division's evidence. Accordingly, the preponderance of the evidence indicates that Ms. Y requires weight-bearing assistance with locomotion three or more times per week. A CAT score of 3/2 (extensive physical assistance by one person) is therefore appropriate for the ADL of locomotion.

With regard to frequency, the Division assigned a frequency of two times per day; Ms. Y asserts that she walks six times per day going to the kitchen, to the living room, and for her PCA-assisted walking exercise.⁶¹ Neither of the parties' evidence as to frequency of locomotion was particularly strong. However, this case involves a proposed reduction of benefits. The Division bears the burden of proof as to any reduction of benefits; Ms. Y bears the burden of proof as to any increase in service level. Because the parties' evidence on this issue is basically equivocal, the frequency of locomotion should remain at the frequency provided in the prior assessment (four times per day, seven days per week).

4. 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.⁶² The Division found Ms. Y to require limited assistance with dressing (CAT score 2/2) based on what Ms. Heaston said Ms. Y's son / PCA told her, and what she observed as to Ms. Y's range of motion at the assessment.⁶³ Ms. Y asserts that, because of her limited range of motion and left-side weakness, she requires extensive assistance with dressing.⁶⁴

⁵⁹ Ex. E7.

⁶⁰ Hearing testimony of Ms. J.

⁶¹ Ex. 1 p. 1; hearing testimony of Ms. J.

⁶² 7 AAC 125.030(b)(4).

⁶³ Ex. E8.

⁶⁴ Ex. 1 p. 2.

Neither of the parties' evidence as to the required degree of assistance with dressing was very strong. There was no indication that Ms. Y requires weight-bearing assistance with dressing. However, the testimony of Ms. J indicates that Ms. Y sometimes requires complete PCA performance of dressing activities. Also, because this case involves a proposed reduction of benefits, the Division bears the burden of proof on this issue. Ms. Y's prior assessment scored dressing at 3/2 based on essentially the same CAT findings as the current assessment. Accordingly, although it is a close question, it is more likely than not that Ms. Y still requires extensive one-person assistance with dressing. A CAT score of 3/2 is thus appropriate.

With regard to frequency, the Division found that a frequency of twice per day is appropriate (*i.e.*, once in the morning and once at night). Ms. Y did not contest the Division's finding on this issue, and this frequency is consistent with the prior assessment.⁶⁵ Accordingly, a frequency of two times per day, seven days per week is appropriate for the ADL of dressing.

5. Eating

For the ADL of eating, 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.⁶⁶ The Division found Ms. Y to require limited one-person assistance (CAT score 2/2). Ms. Y seeks a score of 3/2 (extensive one-person physical assistance).

No evidence was presented that Ms. Y requires weight-bearing assistance while eating. Under the PCA regulation, the only other dividing line between "limited assistance" and "extensive assistance" with eating is whether the PCA fully performs the eating activity three or more times per week. Ms. J testified that Ms. Y's son / PCA must generally feed her. This is consistent with the assessor's own observation that Ms. Y's hands and arms were shaky and that she had difficulty raising her hands to her mouth.⁶⁷ This is also consistent with Ms. Y's prior assessment, on which the same assessor gave Ms. Y a score of 3/2 based on essentially the same CAT findings as the current assessment.⁶⁸ Accordingly, it is more likely than not that Ms. Y requires extensive assistance while eating, and a score of 3/2 is therefore appropriate.

⁶⁵ Ex. 1 p. 2; Ex. F8.

⁶⁶ 7 AAC 125.030(b)(5).

⁶⁷ Ex. E9.

⁶⁸ Ex. F9.

With regard to frequency, the Division found that a frequency of three times per day is appropriate, and Ms. Y did not contest the Division's finding on this issue.⁶⁹ Accordingly, a frequency of three times per day, seven days per week is appropriate for the ADL of eating.

6. Toilet Use

For the ADL of toilet use, PCA time is limited by regulation to time spent moving to and from the toilet, transfers on and off the toilet, general hygiene care of a colostomy, ileostomy, or external catheter, and inserting and removal of a nonmedicated suppository, digital stimulation, or other routine incontinence care.⁷⁰ The CAT's definition of "toilet use" is somewhat broader, encompassing post-toileting hygiene and clothing adjustments.⁷¹

The Division found that Ms. Y requires extensive one-person assistance with toilet use (CAT score 3/2).⁷² Ms. Y's witness testified regarding Ms. Y's toileting difficulties, but there was no assertion that Ms. Y is fully dependent with toileting, and there was no evidence that the assessed frequency was insufficient. The Division was therefore correct to assign Ms. Y a CAT toileting score of 3/2 with a frequency of six times per day, seven days per week.⁷³

7. 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.⁷⁴ The Division found that Ms. Y requires limited one-person assistance with her personal hygiene (CAT score 2/2).⁷⁵ Ms. Y's witness testified regarding Ms. Y's difficulties in performing her personal hygiene, but there was no evidence that Ms. Y requires weight-bearing support during these tasks, or that her PCA fully performs these tasks at least three times per week. Likewise, there was no evidence that the assessed frequency was insufficient. The Division was therefore correct to assign Ms. Y a CAT personal hygiene score of 2/2 with a frequency of one time per day, seven days per week.⁷⁶

⁶⁹ Ex. 1 pp. 2 - 3.

⁷⁰ 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 these necessary activities.

⁷¹ 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).

⁷² Ex. E9.

⁷³ Ex. E9.

⁷⁴ 7 AAC 125.030(b)(7).

⁷⁵ Ex. E10.

⁷⁶ Ex. E10.

8. 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."⁷⁷ The Division found that Ms. Y requires extensive assistance with bathing (CAT score 3/2). Ms. Y's witness testified regarding Ms. Y's difficulties in bathing, but there was no evidence that Ms. Y is totally dependent with bathing, or that assistance from more than one person was required. Likewise, there was no evidence that the assessed frequency was insufficient. The Division was therefore correct to assign Ms. Y a CAT bathing score of 3/2 with a frequency of one time per day, seven days per week.⁷⁸

IV. Conclusion

The Division's scoring of Ms. Y's activities of daily living was correct in the areas of bed mobility, toileting, personal hygiene, and bathing, but Ms. Y is eligible for additional PCA services in the areas of transfers, locomotion, dressing, and eating. Accordingly, the Division's decision is affirmed in part and reversed in part.

DATED this 5th day of August, 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 14th day of August, 2013.

By: Signed
Name: Jay D. Durych
Title: Administrative Law Judge, DOA/OAH

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

⁷⁷ 7 AAC 125.030(b)(8). The definition of bathing contained in the CAT is essentially identical (*see* Ex. E11).
⁷⁸ Ex. E11.