



### III. Discussion

Mr. D has been authorized to receive 26.25 PCA hours per week. The purpose of the PCA program

is to provide 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>1</sup>]

The division uses the CAT (Consumer Assessment Tool) to help it assess the level of assistance needed.<sup>2</sup> The amount of time allotted for needed assistance is determined by the Personal Care Assistance Service Level Computation chart.<sup>3</sup> The Service Level Computation chart shows the amount of time allotted for each ADL or IADL, depending on the level of assistance needed for each task. The ADLs measured by the CAT are bed 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>4</sup> The IADLs measured by the CAT are light meal preparation, main meal preparation, housework, grocery shopping, and laundry.<sup>5</sup>

The different levels of assistance with ADLs are defined by regulation and in the CAT.<sup>6</sup> Supervision is defined as oversight, encouragement, or cueing three or more times a week, with physical assistance no more than two times a week.<sup>7</sup> Limited Assistance (scored as a two) is defined as requiring direct physical help or guidance from another individual three or more times a week, with weight-bearing support no more than two times a week.<sup>8</sup> Extensive Assistance (scored as a three) is defined as requiring direct physical help with weight-bearing support at least three times a week, or full assistance without any involvement from the recipient at least three times a week, but not all of the time.<sup>9</sup> Total Dependence (scored as a four) means the recipient has to rely entirely on the caretaker to perform the activity.<sup>10</sup>

---

<sup>1</sup> 7 AAC 125.010(a).

<sup>2</sup> 7 AAC 125.020(b).

<sup>3</sup> 7 AAC 125.024(1).

<sup>4</sup> Ex. E pp. 6 – 11.

<sup>5</sup> Ex. E p. 26.

<sup>6</sup> The July 29, 2009 version of the CAT has been adopted by reference, 7 AAC160.900(d)(6), and therefore the definitions in the CAT have the same effect as a regulation.

<sup>7</sup> Exhibit E6.

<sup>8</sup> 7 AAC 125.020(a)(1); Exhibit E6.

<sup>9</sup> 7 AAC 125.020(a)(2); Exhibit E6.

<sup>10</sup> 7 AAC 125.020(a)(3); Exhibit E6. Bathing and the IADLs have their own assistance level definitions.

The line between Extensive Assistance and Total Dependence is at times blurred. Whether the recipient requires Extensive Assistance or Total Dependence is a fact-specific determination to be made on a case-by-case basis. Consideration should be given to whether the recipient takes an active part in the physical completion of the ADL or whether the recipient is merely cooperating with the caretaker. If the recipient is merely cooperating, then the level of assistance is closer to Total Dependence.

This is an initial assessment. Mr. D has the burden of showing that the division incorrectly assessed the level of assistance required and/or the frequency of assistance required.<sup>11</sup> The parties resolved several of the disputed areas prior to or at the hearing. Those that remain unresolved focus on whether Mr. D requires Extensive Assistance (score 3) or Total Dependence (score 4) to complete his ADLs and IADLs.

Mr. D's position is that because he is a quadriplegic, he is automatically entitled to "100% assistance."<sup>12</sup> This is incorrect. A medical diagnosis may be indicative of the amount of physical assistance a person will require to complete an ADL or IADL, but it is not determinative. The division argued that because the location of Mr. D's spinal injury leaves him with some upper extremity mobility and control, it should not be presumed that he is Totally Dependent upon his PCA. The division is correct. Mr. D was observed by the undersigned to exhibit body movement and control. Therefore, it is appropriate to consider whether he is able to take an active part in the physical completion of a particular ADL or IADL. Only the remaining areas of dispute are addressed below.

A. *Body Mobility*

The ADL of body mobility includes the activity of positioning or turning in a bed or chair.<sup>13</sup> The CAT refers to this as bed mobility, which is described as how a person moves to or from a lying position, or turns side to side, or positions his or her body while lying in bed.<sup>14</sup> Mr. D agrees he can perform up to 25% of the physical effort for bed mobility, but he is unable to reposition without assistance.<sup>15</sup> This is more than merely cooperating; Mr. D

---

<sup>11</sup> 7 AAC 49.135.

<sup>12</sup> Exhibit 1

<sup>13</sup> 7 AAC 125.030(b)(1).

<sup>14</sup> Exhibit E6

<sup>15</sup> D Testimony.

is taking an active part in the physical completion of the ADL. A one person Extensive Assist (score 3/2) is supported by the evidence. There is no dispute over frequency.

### B. *Transfers*

Transferring is the act of moving between surfaces, such as getting out of or into a bed, or getting up from a chair to a standing position.<sup>16</sup> The division conceded that Mr. D should receive six mechanical transfers per day. The unresolved issue is whether Mr. D requires a one person Extensive Assist (score of 3/2) or a one person Full Assist (score of 4/2) from his caretaker when he transfers.

Mr. D believes the division should have scored him as requiring Full Assistance (4/2) with transfers. His testimony focused on his inability to participate in mechanical transfers. During the assessment visit, the division did not ask Mr. D to demonstrate use of the Hoyer lift, but did observe Mr. D demonstrate getting into bed with physical assistance. Mr. D admits that he can “pivot transfer” with PCA assistance, but the division prefers mechanical transfers versus manual transfers.<sup>17</sup> Because the division did not observe Mr. D perform a mechanical transfer and did not provide evidence to establish that he can actively participate in the division’s preferred method of transfer, Mr. D has provided evidence that he is Totally Dependent with mechanical transfers (score 4/2) six times a day.

### C. *Locomotion*

The ADL of locomotion refers to the manner in which a person moves within his or her own room or other areas on the same floor.<sup>18</sup> The division scored Mr. D as requiring a one person limited assist (score 2/2); he contends that it should be scored as Extensive Assist (3/2). Mr. D agrees with the assessor’s observations that he can propel the wheelchair short distances, but testified that he relies on his PCA to assist him three or more times per week.<sup>19</sup> An assessment visit attempts to accurately reflect a recipient’s needs throughout the day and week, but with the limited amount of time allocated to conduct each assessment visit (on average 1 – 1.5 hours total), this is difficult to do, as demonstrated by Mr. D’s visit.

---

<sup>16</sup> See Exhibit E6.

<sup>17</sup> The division confirmed that when a recipient uses both mechanical and non-mechanical transfers, it will use the Service Level Authorization for all transfer frequencies regardless of type.

<sup>18</sup> See Exhibit E7.

<sup>19</sup> See Exhibit E7.

The assessor did not observe Mr. D access the kitchen or leave his room. His PCA testified that there are times when she provides 100% of the assistance to move from one area on his floor to another. Once Mr. D receives his electric wheelchair he should no longer require this level of assistance. Until that time, Mr. D has established by a preponderance of the evidence that although he performs part of the locomotion, he requires full caregiver assistance three or more times per week. This is Extensive Assistance (Score 3/2).

#### D. *Dressing*

The ADL of dressing refers to how a person puts on, fastens, and takes off all items of street clothing, including donning/removing a prosthesis.<sup>20</sup> Mr. D's ability to assist with dressing depends on the type of clothing. For example, his mother had modified some of his pants so he can fasten and unfasten them without assistance. He is completely dependent on his caregiver to help him pull his pants up or down and to don his shoes and socks. As explained above, the difference between Limited and Extensive Assistance is the number of times a recipient requires weight-bearing physical assistance per week, not what percentage of an ADL he or she can complete. Mr. D has not established by a preponderance of the evidence that he is unable to participate and is merely cooperating with his PCA. Therefore, he is not totally dependent upon his PCA to complete the ADL of dressing. It is more likely than not that a one person Extensive Assist (score 3/2) is the correct score.

#### E. *Bathing*

The division concluded that, because Mr. D is able to hold the water sprayer while bathing, he is not Totally Dependent upon his caregiver to complete this ADL, and a score of 3/2 is appropriate. Mr. D believes he is Totally Dependent because he cannot wash himself. He explained that he holds the sprayer to keep warm water on his body so he does not get cold. He is not assisting with bathing. It is undisputed that Mr. D can hold the sprayer. It is more likely than not that he can assist with rinsing off some of his body. Rinsing is an active part of bathing. The division correctly scored Mr. D as requiring Extensive Assistance (score 3/2) to complete this ADL.

---

<sup>20</sup> Exhibit E8.

F. *Toileting*

Toilet use includes transfers on and off the toilet, cleaning oneself, managing a catheter, and adjusting clothing. The parties dispute frequency for this ADL. The division authorized four times a day, and Mr. D believes he requires six times per day. Mr. D's doctor has indicated that Mr. D should receive a frequency of six toilets per day.<sup>21</sup> The division has offered no testimony or evidence (other than the CAT) in support of its selected frequency. On balance, Mr. D has met his burden of proving that, more likely than not, he should receive a frequency of six times per day for the ADL of toileting.

G. *IADLs Light and Main Meal Preparation, Laundry*

The division assessed Mr. D as being involved, but requiring physical assistance to complete each of these IADLs (score 2/3). A self-performance score of 2 is appropriate when the recipient can perform an IADL with help. Help is defined as including "supervision, reminders, and/or physical 'hands on' help."<sup>22</sup> A support code of 3 recognizes that physical assistance is required to complete the IADL.<sup>23</sup>

Mr. D testified regarding his current living arrangement. He has a microwave and mini refrigerator in his room. The only kitchen and laundry facilities on site are not physically accessible to him, so he is fully dependent on his PCA to perform the IADLs.<sup>24</sup> For this reason, he believes his score should be changed to acknowledge that he is not involved at all with any of his meal preparation or his laundry (score 3/4). The division offered no explanation as to why Mr. D received a 2/3 score. Based on the testimony at the hearing, Mr. D is dependent on others for his meal preparation and laundry. He should be scored at 3/4 for these three IADLs.

**IV. Conclusion**

Mr. D's PCA service plan should be revised to be consistent with this decision.

DATED this 11<sup>th</sup> day of June, 2014.

*Signed* \_\_\_\_\_  
Rebecca L. Pauli  
Administrative Law Judge

---

<sup>21</sup> Exhibit 3, p. 7.

<sup>22</sup> Exhibit E26.

<sup>23</sup> *Id.*

<sup>24</sup> D Testimony.

## Adoption

The undersigned, by delegation from 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 20<sup>th</sup> day of June, 2014.

By: Signed  
Name: Rebecca L. Pauli  
Title: Administrative Law Judge

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