

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

In the Matter of)
)
 N Q) OAH No. 15-0952-MDS
) Agency No.

DECISION

I. Introduction

The Division of Senior and Disabilities Services (Division) denied N Q’s application to receive Medicaid personal care assistance (PCA) services. After an assessment interview, the division concluded that Ms. Q did not require physical assistance to complete any of the activities of daily living or instrumental activities of daily living. Therefore, she was not eligible to receive PCA services.

A hearing was held August 27, 2015. In addition to her testimony, Ms. Q submitted her areas of disagreement, photographs of her home, and a voice recording of the assessment interview. Ms. Q’s Agency Representative, E D also testified.

Because she has not shown by a preponderance of the evidence that she is eligible for PCA services, the Division’s denial is upheld.

II. The PCA Service Determination Process

The Medicaid program authorizes PCA services for the purpose of providing “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”¹ However, PCA services are not authorized if “the recipient only needs assistance with supervision, cueing, or setup in order to perform an ADL or IADL.”²

The Division uses the Consumer Assessment Tool, or “CAT,” as a methodology to score eligibility for the PCA program, and the amount of assistance, if any, that an eligible person needs to perform ADLs, IADLs, and the other covered services.³ In general, if certain levels of

¹ 7 AAC 125.010(a).

² 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.*

³ *See* 7 AAC 125.024(a)(1). The CAT is itself a regulation, adopted in 7 AAC 160.900.

assistance are required, the regulations prescribe a fixed number of PCA minutes per instance of that activity.

As a gateway to eligibility for PCA services, the CAT evaluates ADLs and IADLs. If a person requires some degree of hands-on physical assistance with any one of the ADLs or IADLs, then the person is eligible for PCA services. If a person is independent or only requires oversight, supervision, or cueing with ADLs and IADLs, the person is not eligible for PCA services.⁴

PCA services can also be authorized for a few additional tasks beyond direct performance of ADLs and IADLs, such as escort to medical appointments. These additional services are never available if the person has been determined to fall below the level for services in every one of the ADL and IADL categories.⁵

III. Facts

N Q suffers from bipolar disorder, osteoarthritis, dizziness, urge incontinence, and varicose veins of lower extremities with ulcer.⁶ Ms. Q lives alone. Her house is cluttered to the point that it interferes with her ability to perform ADLs and IADLs. For example, photographs of her residence on the day of the CAT reveal that Ms. Q could not use the bathtub because of the items piled in and around it. Ms. Q spoke of using a honey bucket for a toilet and baby wipes to bathe.

On the day of the interview she was dressed. Her usual appearance is characterized as “disheveled”.⁷ She is typically dressed in a robe or oversized lounge pants. E D, her agency representative who sees her once a month, described a noticeable body odor, unclean hair, and stained clothing. The stains are not limited to her clothing and include food, feces, and urine. He agrees that she has difficulty staying focused and caring for herself.

Mr. D was present during the assessment interview and submitted areas of disagreement for Ms. Q. The areas of disagreement focused on the condition of her household environment and Ms. Q’s mental condition, which interferes with her ability to focus on ADLs and IADLs.

The assessment is quick to note the condition of N’s environment and suggests the problems she is having with [ADLs and IADLs] are caused by her environment. The assessment does not however explain why or how her

⁴ Ex. E, p. 31.

⁵ *See id.*

⁶ Ex. E, p. 3.

⁷ Testimony of D.

environment got into the unsafe and unhealthy condition it was found the date of the assessment. If Ms. Q could physically and cognitively manage the environment as the assessor suggests, then why doesn't she?⁸

Ms. Q's mental condition interfered with her ability to present her case or meaningfully testify throughout the hearing. She was prone to outbursts, inconsistent ramblings, unable to remain focused on the task at hand, and would often hang up throughout the proceeding. As a result, Ms. Q was reported to Adult Protective Services and an investigation was initiated.

Ms. Q had the burden of proving she was eligible to receive PCA services. The evidence received establishes by a preponderance of the evidence that Ms. Q is unable to provide a clean and healthy environment for herself. However, the evidence does not establish that Ms. Q requires physical assistance to complete ADLs and IADLs.

V. Conclusion

Had Ms. Q been able to assist in the presentation of her case or respond to questions in a meaningful fashion, she may have been able to establish her eligibility for PCA services. However, the record does not support such a finding. The division's decision to deny her application for PCA services is affirmed.

This decision does not preclude Ms. Q from reapplying for PCA services or applying for other Medicaid services.

DATED this 1st day of October, 2015.

Signed

Rebecca L. Pauli

Administrative Law Judge

⁸ Areas of Disagreement, p. 2.

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 October, 2015.

By: *Signed* _____
Name: Andrew M. Lebo
Title: Administrative Law Judge

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