

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

In the Matter of	)	
	)	
N Y	)	OAH No. 16-0844-MDS
_____	)	Agency No

**DECISION**

**I. Introduction**

This case involves the number of personal care assistance (PCA) hours for which N Y is eligible under the Alaska Medicaid program. Following a May 2016 reassessment of Ms. Y’s medical condition and functional abilities, the Division of Senior and Disabilities Services (Division) notified Ms. Y that it was reducing her PCA service hour authorization. It first reduced her PCA hours from 30.75 to 29 because of lapsed prescriptions. It later notified her that her PCA service hours would be reduced from 29 to 14.5 hours per week, effective July 22, 2016, based on the May reassessment. Through her son and power of attorney, Ms. Y appealed.

This decision partially upholds and partially reverses the Division’s determination of the PCA services for which Ms. Y is eligible, as further discussed below.

**II. Background Facts**

Ms. Y is 96 years old. Her primary language is Hmong. She lives with her son and power of attorney, J W, her daughter-in-law and personal care assistant, O Z, and her six grandchildren.<sup>1</sup> Ms. Y’s medical diagnoses include diabetes mellitus, hypertension, dementia without behavioral disturbance, arthritis, asthma and allergies.<sup>2</sup>

Beginning in August 2014, Ms. Y received 30.75 hours of PCA services per week. The Division primarily based this service authorization on a March 12, 2014 assessment of her medical condition and functional abilities.<sup>3</sup> In relevant part, that assessment found that Ms. Y required extensive assistance from one person with the activities of daily living (ADLs) of transfers, dressing, and toilet use.<sup>4</sup> She required extensive assistance for locomotion to access medical appointments, with a frequency of one appointment per week.<sup>5</sup> She required limited assistance from one person for locomotion in room. The assessment concluded that Ms. Y was

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<sup>1</sup> Exhibit E, pp. 1-3.  
<sup>2</sup> Exhibit E, pp. 3-4; Exhibit G, p. 8.  
<sup>3</sup> Exhibit 4, p. 1.  
<sup>4</sup> Exhibit F, p. 16.  
<sup>5</sup> Exhibit F, p. 8.

totally dependent on others to perform the instrumental activities of daily living (IADLs) of light meal preparation, main meal preparation, light housework, grocery shopping and laundry.<sup>6</sup>

On May 20, 2016, Assessor Eric Talbert reassessed Ms. Y, so that the Division could evaluate her ongoing program eligibility and appropriate PCA service level.<sup>7</sup> Shortly after the reassessment, the Division notified Ms. Y that it was reducing her PCA service hours from 30.75 to 29 hours per week, because her doctor's prescriptions for PCA assistance with walking exercises and vital signs/glucose levels had expired, and the doctor had not re-ordered those activities.<sup>8</sup> The lapsed authorization for walking exercises had provided PCA assistance ten minutes per day, seven days per week.<sup>9</sup>

On June 29, 2016, Ms. Y's doctor signed a new prescribed task form for walking exercises. This form requested PCA assistance with walking exercises for two hours per day, three times per week.<sup>10</sup>

On July 12, 2016, the Division notified Ms. Y that her PCA service authorization would be further reduced from 29 hours to 14.5 hours per week, based on her May 2016 reassessment.<sup>11</sup> The Division concluded that Ms. Y's functional abilities had materially improved in a number of areas since the last assessment. In relevant part, it determined that Ms. Y requires supervision and setup help with transfers and locomotion in room, limited assistance with locomotion to access medical appointments, and limited assistance with dressing and toilet use.<sup>12</sup> It also concluded that Ms. Y is "independent with difficulty," and she requires physical assistance with the IADLs of main meal preparation, light housework, grocery shopping and laundry. She was rated "independent with difficulty" for light meal preparation, for which she requires only set-up help.<sup>13</sup>

Through her power of attorney, Ms. Y appealed.<sup>14</sup> She argued that she requires eight hours of PCA assistance per day.

The formal hearing took place on August 12, 2016 before Administrative Law Judge Jay Durych. With the assistance of a Hmong translator, Mr. W represented Ms. Y and testified on her behalf. Hearing Representative Darcie Shaffer represented the Division. Ms. Shaffer and the

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<sup>6</sup> Exhibit F, p. 28.

<sup>7</sup> Exhibit E.

<sup>8</sup> Exhibit 4, p. 2.

<sup>9</sup> Exhibit G, p. 7.

<sup>10</sup> Exhibit 4, p. 6.

<sup>11</sup> Exhibit D.

<sup>12</sup> Exhibit E, p. 21.

<sup>13</sup> Exhibit E, p. 29.

<sup>14</sup> Exhibit C.

Division's Assessor, Eric Talbert, testified for the Division. The hearing was recorded. All submitted documents were admitted into the record, and the record closed at the end of the hearing.

At the hearing, the Division indicated that it had reconsidered some scores from Ms. Y's May 20, 2016 assessment. It made these changes following its review of the assessment, Ms. Y's most recent Medicaid Waiver program Plan of Care, and medical records that she submitted.<sup>15</sup> The Division also indicated that it had contacted Ms. Y's doctor to clarify Ms. Y's prescription for walking exercises, but it did not receive a response.<sup>16</sup> The Division's adjusted determinations are addressed below, in the discussion of each relevant ADL and IADL.

### **III. Overview of the PCA Service Determination Process**

The Medicaid program authorizes PCA services for the purpose of providing physical assistance with ADLs and IADLs, as well as other services based on the physical condition of the recipient.<sup>17</sup> The department may not authorize PCA services if the assessment shows that the recipient only requires supervision, cueing, or setup assistance while he or she independently performs an ADL or IADL.<sup>18</sup>

When it assesses an applicant or an existing recipient of Medicaid services, the Division relies on the Consumer Assessment Tool or "CAT," which guides the assessment process and scoring. The Division looks to the applicant's CAT scores when it determines the amount of assistance, if any, that an eligible person needs to perform ADLs, IADLs, and other covered services.<sup>19</sup> In general, certain levels of assistance will result in authorization for a fixed number of PCA minutes to assist the recipient each time he or she performs the activity in question.

The ADLs measured by the CAT are bed mobility, transfers (non-mechanical), transfers (mechanical), locomotion (in room), locomotion (between levels), locomotion to access medical appointments, dressing, eating, toilet use, personal hygiene, personal hygiene-shampooing, and bathing.<sup>20</sup>

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<sup>15</sup> Testimonies of Darcie Shaffer, Eric Talbert.

<sup>16</sup> Testimony of Darcie Shaffer.

<sup>17</sup> 7 AAC 125.010(a).

<sup>18</sup> "Cueing" means daily verbal or physical guidance that signals to the recipient that he or she needs to perform an activity. "Setup" includes "arranging items for use or getting items ready for use so that the recipient can independently perform an ADL or IADL." "Supervision" means "observing and giving direction, as needed, so that the recipient can independently perform an ADL or IADL." 7 AAC 125.020(e).

<sup>19</sup> See 7 AAC 125.010; 7 AAC 125.024(a)(1). The CAT itself is adopted by reference in 7 AAC 160.900(d)(6).

<sup>20</sup> Exhibit E, pp. 6 – 11.

The CAT numerical coding system for ADLs has two components. The first component is the *self-performance code*. These codes rate how capable a person is of performing a particular ADL. The possible codes are: **0** (the person is independent and requires no help or oversight)<sup>21</sup>; **1** (the person requires supervision); **2** (the person requires limited assistance)<sup>22</sup>; **3** (the person requires extensive assistance)<sup>23</sup>; **4** (the person is totally dependent).<sup>24</sup> There are also codes that are not used in calculating a service level: **5** (the person requires cueing); and **8** (the activity did not occur during the past seven days).<sup>25</sup>

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 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).<sup>26</sup>

The CAT also codes certain activities known as “instrumental activities of daily living” or IADLs. These include light meal preparation, main meal preparation, light housework (such as doing dishes, dusting, making bed), laundry (in-home and out-of-home), and grocery shopping.<sup>27</sup>

The CAT codes IADLs slightly differently than it does ADLs. 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 involved in the activity, but help in the form of supervision, reminders, or physical “hands-on” assistance was provided); and **3** (dependent / done by others – the activity was fully performed by others, and the person was not involved at all each time the activity was performed). There is also a code that is not used to arrive at a service level: **8** (the activity did not occur).<sup>28</sup>

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<sup>21</sup> “Independent” means the person required no help or oversight, or, the person required help/oversight only 1 or 2 times during the last 7 days. See Exhibit E, p. 7.

<sup>22</sup> “Limited assistance” means the person is highly involved in the activity. He or she may receive direct physical help in the form of guided maneuvering of limbs, or other non-weight-bearing assistance three or more times per week. He or she also may receive that assistance plus weight-bearing assistance one or two times during the last 7 days. See Exhibit E, p. 7. See also 7 AAC 125.020(a)(1).

<sup>23</sup> “Extensive assistance” means the recipient is able to perform part of the activity, but at least three times per week, he or she requires direct physical help from another individual for weight-bearing support or full performance of the activity. See Exhibit E, p. 7; 7 AAC 125.020(a)(2).

<sup>24</sup> For ADLs and IADLs, “dependent” means “the recipient cannot perform any part of the activity, but must rely entirely upon another individual to perform the activity.” 7 AAC 125.020(a)(3). See also Exhibit E, p. 7 (full performance of activity by another is required during entire last 7 days).

<sup>25</sup> Exhibit E, p. 7.

<sup>26</sup> *Id.* There are also codes that are not used to determine a service level: **5** (cueing required); and **8** (the activity did not occur during the past seven days).

<sup>27</sup> Exhibit E, p. 29.

<sup>28</sup> *Id.*

The *support codes* for IADLs are also slightly different than the support codes for ADLs. The support codes for IADLs are: **0** (no support provided); **1** (supervision / cueing provided); **2** (setup help only); **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 is not used to arrive at a service level: **8** (the activity did not occur).<sup>29</sup>

The codes assigned to a particular ADL or IADL determine how much PCA service time a person receives for each occurrence of a particular activity. For instance, a person who is coded as requiring extensive assistance (code of 3) with bathing would receive 22.5 minutes of PCA service time for each bath.<sup>30</sup>

For covered services beyond assistance with ADLs and IADLs, specific rules apply that are discussed below.

#### **IV. Discussion**

In this case, the parties agree that Ms. Y is eligible for PCA services. The only issue is the number of service hours for which she qualifies. Since the Division seeks to reduce Ms. Y's authorized service hours, it has the burden to prove by a preponderance of the evidence that the reduction is justified.<sup>31</sup> To do this, it must show that Ms. Y has had a material change in condition, and her need for PCA services has decreased since her last assessment.<sup>32</sup> The Division can meet this burden using any evidence on which reasonable people might rely in the conduct of serious affairs.<sup>33</sup> In general, the relevant timeframe under review involves Ms. Y's condition and functional abilities from the time of the assessment to the time of the agency's decision.<sup>34</sup>

Ms. Y did not challenge specific CAT scores for her ADLs and IADLs. She argued that she requires more total PCA time, up to eight hours per day. She also argued that her doctor's recent prescription for PCA assistance with walking exercises should be approved as ordered.

Because Ms. Y did not narrow her appeal to particular CAT scores, this decision will review each area for which the Division reduced her PCA service time. This includes the ADLs

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

<sup>30</sup> See Exhibit B, pp. 44-46 (Division of Senior & Disability Services *Personal Care Assistance Service Level Computation* chart); 7 AAC 125.024(a).

<sup>31</sup> 7 AAC 49.135. A preponderance of the evidence is established when the fact in question is more likely true than not true. 2 AAC 64.290(e).

<sup>32</sup> 7 AAC 125.026(a).

<sup>33</sup> 2 AAC 64.290(a)(1).

<sup>34</sup> See 7 AAC 49.170; *In re T.C.*, OAH No. 13-0204-MDS (Commissioner of Health & Soc. Serv. 2013), available online at <http://aws.state.ak.us/officeofadminhearings/Documents/MDS/HCW/MDS130204.pdf>.

of transfers, locomotion in room and to access medical appointments, dressing, and toilet use.<sup>35</sup> It includes the IADLs of light meal preparation, main meal preparation, light housework, grocery shopping and laundry (out of home). Lastly, it addresses the issue of PCA service time for the prescribed task of walking for exercise.

*A. Transfers*

For the ADL of transfers, PCA time is allowed when a person requires physical assistance to move between surfaces, such as from a sitting to standing position.<sup>36</sup> In 2014, Ms. Y was rated as requiring extensive assistance from one person for transfers (self-performance code 3, support code 2), and a frequency of 42 times per week.<sup>37</sup> In 2016, the assessor found that Ms. Y requires only supervision and set-up help with transfers (self-performance code 1, support code 1).<sup>38</sup> As a result, she does not qualify for any PCA time for this ADL.

Mr. Talbert based this conclusion on Ms. Y's statement during the assessment that she can get up by herself, using her cane and the wall for support. He also relied on the family's statements that they stay nearby to monitor Ms. Y, since she is unsteady on her feet. Lastly, Mr. Talbert observed Ms. Y stand up on her own and take several steps during the assessment. He noted that she was unsteady and had to hold on to the wall and furniture for support.<sup>39</sup> At the hearing, Mr. Talbert testified that Ms. Y's August 2015 Waiver Plan of Care also supports her revised CAT score for transfers. That Plan of Care, which is signed by J W, states that Ms. Y requires supervision for transfers and locomotion.<sup>40</sup>

Ms. Y did not present any evidence indicating that she regularly requires physical assistance to sit or stand. Ms. Y's age is one factor in assessing the likelihood that she requires hands-on assistance to transfer. However, this fact alone is not sufficient, particularly in light of the evidence that Ms. Y typically can and does transfer without physical assistance. Mr. Talbert's observation of Ms. Y's transferring ability is consistent with the family's statements as well as Ms. Y's Waiver Plan of Care. In addition to the statement that Ms. Y can transfer with supervision, the Plan of Care indicates that Ms. Y has a history of getting up on her own and

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<sup>35</sup> Ms. Y's CAT score for bed or body mobility is not addressed because, although the 2016 CAT rated Ms. Y's need for assistance differently than it did in 2014, she did not receive PCA service time for this ADL in 2014 or 2016. *See* Exhibit D, p. 9.

<sup>36</sup> Exhibit E, p. 7.

<sup>37</sup> Exhibit F, p. 7; Exhibit D, p. 9.

<sup>38</sup> Exhibit E, p. 7.

<sup>39</sup> *Id.*

<sup>40</sup> *See* Exhibit G, pp. 9, 17.

wandering at night.<sup>41</sup> While this would understandably cause the family significant concern, it also confirms that Ms. Y generally is able to transfer on her own, even if she is unsteady and she sometimes transfers unwisely.

Based on the evidence in the record, it is more likely than not true that Ms. Y no longer requires hands-on physical assistance with transfers. Accordingly, the Division has met its burden of proof and shown that Ms. Y's PCA assistance with transfers should be eliminated.

*B. Locomotion in room and locomotion to access medical appointments*

Locomotion in room is the act of moving between locations within a room and other areas on the same floor of the home. It may involve the use of an assistive device such as a cane, walker, or a wheelchair.<sup>42</sup> PCA time is allowed when a person requires physical assistance to move either within the recipient's home or outside the home to keep medical or dental appointments.<sup>43</sup>

Ms. Y's 2014 assessment determined that she required limited assistance from one person (self-performance code 2, support code 2) for in-room locomotion 35 times weekly, based on the assessor's observation and statements made during that assessment. In 2016, the assessor found that Ms. Y is able to walk inside the house with supervision. He based this conclusion on Ms. Y's statement that she can walk with her cane, as well as his observation of Ms. Y walking by holding on to the wall and furniture for balance and support.<sup>44</sup> She did not require hands-on assistance to perform this task. During the hearing, Mr. Talbert confirmed that he took Ms. Y's age into consideration in evaluating her functional abilities. He testified that, after the assessment, he had reviewed Ms. Y's medical records, and he did not find any indication that she is unable to walk on her own. He also noted that there had been no reports of falls or emergency room visits in the past year. Lastly, Mr. Talbert compared his conclusion with the information in Ms. Y's Waiver Plan of Care, and he found that the Plan of Care similarly noted that Ms. Y only requires supervision with in-room locomotion.<sup>45</sup>

Ms. Y did not specifically challenge the Division's determination that she can move about within her home without hands-on assistance. The evidence in the record supports the finding that Ms. Y more likely than not requires supervision and set-up help to move about within her

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<sup>41</sup> Exhibit G, p. 9. The record does not include evidence that Ms. Y's functional abilities have declined since the time of her Waiver Plan of Care.

<sup>42</sup> Exhibit E, p. 8.

<sup>43</sup> 7 AAC 125.030(b)(3).

<sup>44</sup> Testimony of Eric Talbert; Exhibit E, p. 8.

<sup>45</sup> See Exhibit G, p. 9.

home. The assessor's observations are consistent with other information, including the absence of any reference in Ms. Y's medical records to a need for locomotion assistance, the doctor's order for Ms. Y to walk for exercise, and the Waiver Plan of Care reference to supervision for locomotion. Because she no longer needs hands-on assistance for this activity, PCA assistance for locomotion in room was properly eliminated.

Regarding the ADL of locomotion to access medical appointments, the 2014 assessment concluded that Ms. Y requires extensive assistance (self-performance code 3) to access medical appointments twice per week. The 2016 assessment concluded that Ms. Y requires limited assistance and a frequency of once per week.<sup>46</sup> At the hearing, however, Mr. Talbert stated that he had reconsidered this determination, and he recommended a rating of extensive assistance. Mr. Talbert revised this finding because Ms. Y uses a manual wheelchair for locomotion when she is outside the house. Therefore, she regularly requires weight-bearing assistance to push the wheelchair and to get in and out of the car.

Mr. W testified at some length about his mother's need for extensive assistance getting to and from medical appointments. He discussed the difficulty of getting Ms. Y and her wheelchair in and out of the car, and he noted that significant time is required whenever he takes her out of the house. He did not address the frequency of her medical appointments.

The evidence supports the conclusion that Ms. Y requires extensive assistance with locomotion to access medical appointments, since weight-bearing assistance is needed to push her wheelchair. The 2016 assessment authorizes PCA time for this activity once per week, based on the information provided during the assessment.<sup>47</sup> This determination was not disputed, and the authorization for a frequency of once per week is upheld.

### *C. Dressing*

Dressing refers to how a person "puts on, fastens, and takes off all items of street clothing."<sup>48</sup> In 2014, Ms. Y was found to require extensive assistance for this activity (self-performance code of 3).<sup>49</sup> The 2014 assessment relied on Mr. W's statement that his mother required assistance for all her dressing needs because of shoulder and neck pain and her poor cognition. Ms. Y also complained of neck and shoulder pain at that time.<sup>50</sup>

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<sup>46</sup> Exhibit D, p. 9; Exhibit E, p. 5.

<sup>47</sup> See Exhibit D, pp. 3, 9.

<sup>48</sup> Exhibit E, p. 9.

<sup>49</sup> Exhibit F, p. 9.

<sup>50</sup> *Id.*



In 2016, the Division concluded that Ms. Y's ability to dress herself had improved, and she required limited assistance (self-performance code 2).<sup>51</sup> During the assessment, Ms. Y told Mr. Talbert that she could dress herself. Her PCA told him that Ms. Y needs someone to hold her shirt so she can thread her arms into the sleeves, and she requires help with her socks and shoes. Mr. Talbert observed that Ms. Y has good range of motion with her upper body, but she has trouble reaching her feet. These observations are consistent with the PCA's report of Ms. Y's assistance needs. Mr. Talbert therefore concluded that Ms. Y requires limited assistance with her dressing ADL.

During the hearing, Ms. Y did not present evidence that contradicts the Division's conclusion on this ADL. Mr. W testified that his mother sometimes undresses herself at inappropriate times. This supports Mr. W's statements about the high degree of supervision and monitoring that his mother requires. However, it also indicates that Ms. Y can perform many dressing activities on her own. The Division has met its burden to show that Ms. Y more likely than not requires limited assistance with dressing.

#### *D. Toileting*

For purposes of the CAT, toileting includes activities such as transfers on and off the toilet, cleansing, changing pads, and adjusting clothing.<sup>52</sup> PCA time for toileting activities is limited 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 other routine incontinence care.<sup>53</sup>

In 2014, Ms. Y required extensive assistance from one person with toileting 42 times per week (self-performance code of 3, support code 2).<sup>54</sup> The 2016 assessment concluded that she requires only limited assistance with this activity, at the same frequency previously provided. However, the Division later reconsidered this determination, and it agreed that Ms. Y requires extensive assistance with this ADL. Mr. Talbert indicated that this score is justified because Ms. Y is incontinent of both bladder and bowel. As a result, she regularly requires weight-bearing assistance to complete all of her toileting needs.

The evidence supports the Division's modified position. Ms. Y more likely than not requires extensive assistance with her toileting ADL, at a frequency of 42 times per week.

#### *E. Instrumental Activities of Daily Living*

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<sup>51</sup> Both the 2014 and 2016 assessments provided for assistance from one person and a frequency of 14 times per week.

<sup>52</sup> Exhibit E, p. 10.

<sup>53</sup> 7 AAC 125.030(b)(6).

<sup>54</sup> Exhibit D, p. 9; Exhibit F, p. 10.

In 2014, Ms. Y's assessment concluded that she was totally dependent on others to perform the IADLS of light meal preparation, main meal preparation, grocery shopping, light housework, and laundry (self-performance code 3, support code 4).<sup>55</sup> In 2016, the Division initially concluded that she could prepare light meals with difficulty, if she received set-up help (self-performance code 1, support code of 2). It found that she could perform the IADLS of main meal preparation, shopping, light housework and laundry with difficulty, if she received physical assistance (self-performance code 1, support code 3).<sup>56</sup>

After closer review, the Division modified these conclusions. At the hearing, it conceded that Ms. Y is still totally dependent on others to perform light housework. It based this conclusion on Ms. Y's age, physical unsteadiness and cognitive impairment. This conclusion is consistent with other evidence in the record.

At the hearing, the Division also revised its coding for the remaining IADLS. It indicated that Ms. Y requires physical assistance (self-performance code 2, support code 3) for light meal preparation, main meal preparation, shopping and laundry.<sup>57</sup> For these tasks, the Division asserted that Ms. Y is not totally dependent on others every time each IADL is performed. Therefore, she cannot receive a self-performance code of 3 (dependent/done by others). It noted that she is not confined to a bed or chair, and she can participate in these IADLS if she receives physical help. The Division also pointed out Ms. Y's Waiver Plan of Care, which indicates that she still makes cultural crafts using string and small beads.<sup>58</sup> It asserted that this shows she has good hand-eye coordination and fine motor skills, and she could assist in some way with these IADLS.

The evidence regarding Ms. Y's physical functionality supports the conclusion that she can participate in laundry tasks by sorting or folding clothes while she remains seated, if other physical assistance is provided. Sorting or folding requires minimal physical effort or cognitive acuity, and Ms. Y possesses the fine motor skills and upper body range of motion required for these tasks. She is more likely than not capable of participating in this IADL if she receives physical assistance. Therefore, the revised laundry score is appropriate (self-performance code 2, support code 3, frequency two times per week).

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<sup>55</sup> Exhibit D, p. 9; Exhibit F, p. 28.

<sup>56</sup> Exhibit E, p. 29.

<sup>57</sup> Testimony of Eric Talbert.

<sup>58</sup> Exhibit G, p. 9.

Because of her significant cognitive impairment, however, it is not clear how Ms. Y can meaningfully assist in any light meal preparation, main meal preparation, or grocery shopping tasks.<sup>59</sup> The Division did not address Ms. Y's dementia when it revised its scores for these IADLs. Ms. Y has the physical ability to participate in the IADLs in question while she sits or moves about in a wheelchair; however, these tasks also require a degree of cognitive acuity or judgment that Ms. Y does not appear to possess. Therefore, it is not readily apparent what meal preparation or shopping tasks she can reasonably be expected to perform, consistent with her cognitive impairment. Because the Division did not adequately explain the basis for its scores on these tasks, it has not met its burden for these IADLs. Ms. Y more likely than not remains totally dependent on others for the IADLs of light meal preparation, main meal preparation and grocery shopping.

*F. Prescribed Tasks*

PCA services are available for persons who have a prescription for, and need help with, matters such as walking and simple exercises.<sup>60</sup> Ms. Y previously received PCA assistance for walking exercises for 10 minutes per day, seven days a week. The prescription for this task expired before the assessment was conducted and acted upon. Therefore, Ms. Y bears the burden to show that PCA time for this task is warranted.<sup>61</sup>

Because Ms. Y's previous prescription had lapsed, she saw Dr. S T, M.D., on June 29, 2016 to get a new prescription.<sup>62</sup> Dr. T's records indicate that this was her first meeting with Ms. Y. They also reflect the family's significant concern about a reduction in Ms. Y's PCA service time. Dr. T noted her willingness to help by writing a letter supporting an increase in PCA hours.<sup>63</sup> The same day, Dr. T filled out Ms. Y's prescribed task form, in which she requested walking exercises two hours per day, three days per week, for a total of six hours per week.<sup>64</sup>

The Division rejected this prescription as patently unreasonable in light of Ms. Y's age, physical ability, and recent walking exercise history. It asserted that Ms. Y could not tolerate walking for two hours at a time. If she could, it would suggest that Ms. Y needs even fewer PCA hours than the Division had approved.

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<sup>59</sup> See Exhibit E, p. 18 (cognition summary).

<sup>60</sup> 7 AAC 125.030(b)(3)(B); Exhibit B, pp. 6-7.

<sup>61</sup> 7 AAC 49.135.

<sup>62</sup> Exhibit 1, pp. 5-6.

<sup>63</sup> Exhibit 1, p. 6.

<sup>64</sup> Exhibit 2, p. 3.

At the hearing, Mr. W did not address his mother's need for walking exercises or her ability to walk for such an extended period of time. He argued only that the doctor's order should be put into effect because his mother should receive more PCA assistance.

Based on all of the evidence in the record, the June 29, 2016 prescription for walking exercises is clearly unreasonable. Therefore, the Division properly rejected it. The prescription may reflect the doctor's attempt to appease the family by helping Ms. Y receive more PCA hours. It also may simply be a mistake. However, nothing in the record suggests that Ms. Y is capable of standing or walking for two hours at a time, or that such a substantial increase in walking exercise time is warranted. The prescribed task form nonetheless provides evidence that some amount of walking exercise is appropriate. Unless and until Ms. Y obtains an updated prescription from her doctor, it is most reasonable to re-adopt the terms of Ms. Y's prior prescription. Therefore, PCA assistance for walking exercises should be approved for ten minutes per day, seven days a week.

## **V. Conclusion**

For the reasons discussed above, the Division's scores for Ms. Y's assistance needs on the identified ADLs and IADLs were partially correct and partially incorrect. As revised during the hearing, the Division's determinations regarding the following activities are upheld:

- Transfers (self-performance code 1, support code 1);
- Locomotion in room (self-performance code 1, support code 1);
- Locomotion to access medical appointments (self-performance code 3, frequency 1 time per week);
- Dressing (self-performance code 2, support code 2, frequency 14 times per week);
- Toilet use (self-performance code 3, support code 2, frequency 42 times per week);
- Light housework (self-performance code 3, support code 4, frequency 1 time per week).
- Laundry (out of home) (self-performance code 2, support code 3, frequency 2 times per week).

The Division did not meet its burden to show that Ms. Y can meaningfully assist with the remaining IADLs. Based on the evidence in the record, Ms. Y is totally dependent on others as follows:

- Light meal preparation (self-performance code 3, support code 4, frequency 14 times per week);

- Main meal preparation (self-performance code 3, support code 4, frequency 7 times per week);
- Grocery shopping (self-performance code 3, support code 4, frequency 1 time per week).

Lastly, Ms. Y met her burden to show that PCA time for the prescribed task of walking exercises should be approved, consistent with her prior prescription for 10 minutes per day, seven days per week.

DATED: September 15, 2016.

By: Signed  
Kathryn Swiderski  
Administrative Law Judge

## 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 4<sup>th</sup> day of October, 2016.

By: Signed  
Signature  
Douglas Jones  
Name  
Medicaid Program Integrity Manager  
Title

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