BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL BY THE COMMISSIONER OF HEALTH

In the Matter of	)	
	)	
N. X.	)	OAH No. 25-2825-MDS
	)	

DECISION

I. Introduction

N. X. applied for Medicaid Waiver (Alaskans Living Independently) services. An assessment was done on August 5, 2025, and as a result of that assessment, Medicaid Waiver services were denied. Ms. X. requested a hearing. After several continuances at her request, a telephonic hearing took place on December 19, 2025, at 1:00 p.m. Ms. X. was present and participated telephonically. In addition to her own testimony, she presented testimony by her brother, T. X.. Ms. Cobo-George represented the Division of Senior and Disability Services and presented testimony from Angel Moody, the Health Program Manager 2 who performed the August 5, 2025, assessment. The exhibits filed with the Office of Administrative Hearings by the Division were admitted without objection. Ms. X. did not file exhibits. The record closed at the end of the hearing.

II. Facts

Ms. X. is a seventy-three year old woman who lives alone in an apartment with an elevator. She has diagnoses of Attention Deficit Hyperactivity Disorder, Post-Traumatic Stress Disorder, Dissociative Disorder, recurring Major Depressive Disorder, and anxiety. In addition to these psychiatric diagnoses, Ms. X. was diagnosed with arthritis, foot deformity, right hip replacement, hammer toe, and chronic kidney disease. She has also been diagnosed with mild[1] and moderate[2] cognitive impairment.

A. Ms. Moody's testimony regarding the CAT assessment.

Ms. Moody has 17 years' experience in hospital care, including in the ICU and respiratory care, and has performed more than 500 assessments for various programs. She

[1] Ex. G, pg. 10.
[2] Ex. G, pg. 119.

completed the Consumer Assessment Tool (CAT) at issue in this case. She went to Ms. X.'s apartment to complete the assessment in person.

Ms. Moody explained her assessments of the five relevant activities of daily living (*e.g.*, Bed Mobility, Transfers, Locomotion). She observed that Ms. X. was able to sit up and move by herself in bed, without assistive devices. She noted that Ms. X. told her she doesn't move onto her right side due to her shoulder, but she was able to move from side to side. As a result, she scored Ms. X. as independent on bed mobility.

Ms. Moody reported that Ms. X. told her that when the PCA is visiting, she assists her to get out of bed. However, Ms. Moody testified that the PCA was present during the assessment and the PCA did not assist Ms. X. during any activity. Ms. X. was observed by Ms. Moody getting in and out of her office chair without any assistance and getting in and out of her bed independently, without any assistive devices. Therefore, she scored Ms. X. as independent with transfers.

Ms. Moody observed that there was an elevator to Ms. X.'s apartment. She observed Ms. X. walk around her apartment. Ms. X. told her that she can, for example, walk independently into a doctor's office for her appointments. Ms. Moody watched as Ms. X. walked without difficulty with balance, remained upright as she walked, and did not use any assistive devices.

Ms. Moody explained that "eating" is how a person eats or drinks, regardless of skill. Ms. X. reported she can swallow her medication whole. Ms. Moody observed her drink from a cup without assistance and to have good bilateral grip. Ms. Moody scored her as independent.

For "toileting," Ms. Moody observed Ms. X. to walk to the bathroom, sit down and stand up from the toilet, and have good grips with her hands. Ms. Moody said that Ms. X. reported she had not needed assistance in the last seven days, but Ms. Moody still scored her as needing "limited assistance" because she did indicate she had arthritis in her shoulders and Ms. Moody observed she was unable to reach down toward her toes. The record shows that Ms. Moody scored Ms. X. as needing "limited assistance" with hygiene (again due to difficulty reaching her toes).[3] She scored her as "2 – one person physical assist" for bathing, again because Ms. X. was unable to reach her feet.[4]

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[3] Ex. E, pg. 12.
[4] Ex. E, pg. 10.

Ms. Moody explained that Ms. X. had not received any therapies or nursing needs in the preceding week and none were reflected in the medical records.

B. Ms. X.'s statement and testimony.

Ms. X. made the following statement at the beginning of the hearing, which she had prepared in advance.

> I can no longer care for myself independently. I need Medicaid care coordinator to help plan long term services. Positive deficits are cognitive communication disorder and neurocognitive disorder. I also experience distress from mental disorders such as ADHD, PTSD, persistent depressive disorder and disassociative (sic) [dissociative] identity disorder. I have been on disability since 1994. I want assistance covering care and therapy planning for long term care. I need continued therapy to assist with strategies, improve safety, improve quality of life and maintain independence. I need a stable living situation and an organized space to complete cognitively complex tasks. I need additional PT hours for transportation to the grocery store, doctor appointments, and therapy appointments. I also need help shopping, meal planning and preparation. Then I need assistive technology, that includes mechanical devices to assist me in dressing like a shoe sleeve or something to help me pull up my diaper and pants. I no longer can pull them up. Okay. I also need technical support using a computer, iPhone and wifi. I am not asking Medicaid to pay for these, but need the waiver for Alzheimer's applications for minigrants to pay for cost of computer and counseling, training, etc. Also ATTLA requires a waiver. . . . Additionally, I have saved my PDF (sic) for the last 3 years to help pay.

When asked for her testimony, Ms. X. repeated much of this statement, stating that

> I can no longer care for myself independently due to cognitive communication disorder and neurocognitive disorder. I also experience distress from mental disorders such as ADHD, PTSD, persistent depressive disorder and dissociative identity disorder. I have been on disability since 1994. I want assistance with care and therapy planning. I need continued therapy to assist with strategies and improve safety, improve quality of life and maintain independence. I need a stable living situation and an organized space to complete cognitively complex tasks. In order to receive services from the community I have, such as Alzheimer's and ATTLA, I have met with, both agencies, and I must have a waiver in order to receive assistance from either one of those places.

She testified that she lives alone and is completely isolated from the community without transportation and a way to connect via electronic means. She stated she cannot function without a computer and her iPhone.

Ms. X. explained that the Personal Care Attendant (PCA) currently "comes in and wakes me up. Otherwise, I would never get out of bed. I'm too depressed. She makes sure that I get up and I go into my living room." The PCA fixes her coffee, gives her medication, and gives her breakfast. According to Ms. X. that is the function that is most "imperative," because she would stay in bed all day without that service. The PCA also helps with laundry. According to Ms. X., the PCA does not help her bathe or toilet "or anything like that."

When sworn, Ms. X.'s twin brother, T. X., briefly endorsed his sister's testimony, asserting that she was telling the truth.

III. Discussion

Ms. X. is the applicant for new benefits. Therefore, she bears the burden of proof.[5] The relevant date for the purpose of assessing the state of the facts is, in general, the date of the agency's decision under review.[6] Here, the assessment was done August 5, 2025, and Ms. X. was notified of the Division's decision on August 8, 2025 that she did not meet eligibility requirements for the Alaska Medicaid ALI Waiver program.

A. The role of the CAT score in determining eligibility for Medicaid Waiver Services.

The Alaska Medicaid program provides services, known as Home and Community-Based Waiver (or Alaskans Living Independently) services, to adults who experience physical disabilities or mental disabilities and who require "a level of care provided in a nursing facility."[7] The purpose of these services is "to offer a choice between home and community-based waiver services and institutional care."[8] The nursing facility level of care[9] requirement is determined in part by an assessment which is documented by the CAT.[10] The CAT records an applicant's needs for professional nursing services, therapies, and special treatments,[11] and whether or not an applicant experiences impaired cognition or problem behaviors.[12] Each of the assessed items is

5 7 AAC 49.135.
6 *See* 7 AAC 49.170.
7 7 AAC 130.205(d)(1)(B) and (d)(2).
8 7 AAC 130.200.
9 *See* 7 AAC 130.205(d)(2); 7 AAC 130.230(b)(2)(A).
10 7 AAC 130.230(b)(2)(B), Ex. E.
11 Ex. E, pgs. 12-14.
12 Ex. E, pgs. 15-17.

coded and contributes to a final numerical score. For instance, if an individual required five days or more of therapies (physical, speech/language, occupation, or respiratory therapy) per week, she would receive a score of 3.[13]

The CAT also records the degree of assistance an applicant requires for activities of daily living (ADL), which include five specific categories: bed mobility (moving within a bed), transfers (i.e., moving from the bed to a chair or a couch, etc.), locomotion (walking or movement when using a device such as a cane, walker, or wheelchair) within the home, eating, and toilet use, which includes transferring on and off the toilet and personal hygiene care.[14] If a person has a self-performance code of 2 (limited assistance, which consists of nonweight bearing physical assistance three or more times during the last seven days, or limited assistance plus weight-bearing assistance one or two times during the last seven days) or 3 (extensive assistance, which consists of weight-bearing support three or more times during the past seven days, or the caregiver provides complete performance of the activity during a portion of the past seven days) plus a support code of 2 (physical assistance from one person) or 3 (physical assistance from two or more persons), that person receives points toward her total eligibility score on the CAT. A person can also receive points for combinations of required nursing services, therapies, impaired cognition (memory/reasoning difficulties), or difficult behaviors (wandering, abusive behaviors, etc.), and required assistance with the five specified activities of daily living.[15]

In order for a person who only has physical assistance needs to score as eligible for Waiver services on the CAT, she would need a self-performance code of 3 (extensive assistance) or 4 (total dependence) and a support code of 2 or 3 for three or more of the five specified activities of daily living (bed mobility, transfers, locomotion within the home, eating, and toileting).[16] To receive a point for cognition, the person must receive a score of 13 or higher in section C4B, plus impaired short term memory, memory recall, and moderately to severely impaired cognitive skills for daily decision-making.[17] To receive a point for "problem behaviors" the person must demonstrate the listed behavior four or more times per week *and* either (1) require professional nursing assessment, observation or management at least three

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13 Ex. E, pg. 32.
14 Ex. E, pgs. 11-12.
15 Ex. E, pgs. 15-17.
16 Ex. E, pg. 33.
17 Ex. E, pg. 32.

times weekly, or (2) total at least 14 points in the supplemental behavior section concerning sleep patterns, wandering, behavioral demands on others, danger to self or others, and awareness of needs or judgment.[18]

The results of the assessment portion of the CAT are then scored. If an applicant's score is a 3 or higher, the applicant is medically eligible for Waiver services.[19]

B. Ms. X.'s eligibility.

Ms. X.'s testimony establishes that she does not require extensive physical assistance with at least three of the five specified activities of daily living (bed mobility, transfers, locomotion within the home, eating, and toileting). Indeed, she somewhat disclaimed assistance from her PCA in bathing, although she wants a mechanical device to assist her with pulling up her briefs and pants. Instead of relying on physical infirmity, Ms. X. argued that her cognitive difficulties and need for assistance with, for example, shopping, warranted a higher score and eligibility for waiver services.

However, activities such as grocery shopping, finances, meal preparation, daily housework, laundry, cleaning (vacuuming, trash removal), and transportation are "instrumental activities of daily living" and are not considered in the scoring for Medicaid Waiver services as needing a "nursing level of care."[20] They may be considered in establishing need for PCA services, which Ms. Moody currently receives.

As Ms. Moody testified, the bar for eligibility based on cognitive difficulty is very high. Ms. X. did not demonstrate the level of impairment of memory required for eligibility. She could recall the season, the location of her room, names and faces, and where she was. Ms. Moody indicated she demonstrated "minimal" difficulty with memory, requiring direction and reminding from others one to three times per day.[21] Ms. X. related how her PCA wakes her up and that she is able to recall what she needed to do upon rising. She explained that she needs to make a list to keep track of things, but she did not testify that she could not follow basic instructions. Indeed, her statement reflected organizational competence. While testifying, Ms. X. showed some difficulty finding words, and was sometimes hesitant in her speech, but she was able to speak coherently and to make her wants known. She did not demonstrate a need for

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18 *Id.*
19 Ex. E, pg. 33.
20 Ex. E, pg. 32-33.
21 Ex. E. pg. 15.

professional nursing management or supervision. Her testimony regarding her attempt to secure technical assistance for setting up and training her on a new computer by reaching out to community organizations demonstrates that she can make independent, reasonable decisions. As such, Ms. X. did not present sufficient evidence to demonstrate that Ms. Moody's score (2) in cognition was inaccurate. Notwithstanding the sincerity of her testimony, she did not meet the burden of demonstrating that she had sufficient cognitive impairment, combined with physical impairment, to meet the "nursing level of care" required for eligibility.

IV. Conclusion

Ms. X. is required to have a score of three or more on the CAT to be eligible for Waiver services. She did not produce evidence that the CAT assessment by Ms. Moody on August 5, 2025, was so erroneous as to require awarding her three or more points. Consequently, she has not met her burden of proof and does not qualify for Waiver benefits. The Division's determination that Ms. X. did not qualify for Waiver benefits as of August 8, 2025, is upheld.

Dated: December 30, 2025

SIGNED
Kristin S. Knudsen
Administrative Law Judge

Adoption

The undersigned, by delegation from the Commissioner of Health, 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 11th day of February, 2026.

By: SIGNED
Name: Daniel R. Phelps II
Title: Process Improvement Manager
Office of the Commissioner
Alaska Department of Health

[This document has been modified to conform to the technical standards of publication. Names have been changed to protect privacy.]