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

In the Matter of	)	
	)	
N.S	)	OAH No. 25-3381-MDS
	)	OAH No. 25-3382-MDS

DECISION

I. Introduction

N.S is a Medicaid recipient who applied for eligibility under the Alaskans Living Independently (ALI) and Community First Choice (CFC) Waiver (collectively, Waiver services) programs. The Division determined she was ineligible for both programs. Prior to her application, Ms. S was receiving 18.50 hours of personal care assistance services (PCS) per week. Following the assessment conducted for Waiver eligibility, the Division of Senior and Disability Services (Division) reduced her PCS from 18.50 to 16.00 hours per week. Ms. S requested a hearing on both the denial of waiver eligibility and the reduction of her PCS hours.

A consolidated hearing was held over several days between December 31, 2025, and January 26, 2026. Throughout these proceedings, the Division was represented by Victoria Cobo-George, Medicaid Program Specialist. The Division called two witnesses: Ryan Evans, Program Manager and Melissa Meade, Health Program Manager. Ms. S was present and represented by her guardian and husband, F.S. She presented two witnesses: care coordinator S.D and D.J, an administrator with Ms. S's PCS agency.

The Division bears the burden of proving that a reduction in Ms. S's PCS hours is supported by the evidence and consistent with her current assessed needs. The Division has failed to carry that burden. At the hearing, the Division's assessor conceded that Ms. S's toileting frequency should not have been reduced from 56 to 42 times per week. This reduction was the primary driver of the overall decrease in authorized PCS hours. The evidence further failed to establish that a reduction in Ms. S's self-performance score for dressing from extensive assistance to limited assistance was warranted. Accordingly, Ms. S's PCS hours should be reinstated to 18.50 hours per week.

As the applicant, Ms. S bears the burden of showing that she meets the eligibility requirements for Waiver services. The evidence establishes that the Division's assessment

understated Ms. S's functional limitations and those limitations rise to the level required for Waiver eligibility. Therefore, the Division's denial of Waiver services eligibility is REVERSED.

II. Overview of the PCS Program

The Medicaid program authorizes PCS to assist Medicaid recipients whose physical conditions result in functional limitations that prevent them from independently performing—or performing with an assistive device—the activities covered by the program.[1] Those covered activities are divided into activities of daily living (ADLs) and instrumental activities of daily living (IADLs). The ADLs are bed mobility, transfers, locomotion, dressing, eating, toileting, personal hygiene, and bathing.[2] The IADLs are light meal preparation, main meal preparation, housework, laundry, and shopping.[3] PCS are also authorized for medication assistance, maintaining respiratory equipment, dressing changes, wound care, medical escort, and passive range of motion exercises.[4]

The Division determines PCS eligibility, and the amount of authorized PCS time using a methodology set out in the Consumer Assessment Tool, or "CAT."[5] The amount of time authorized for each covered activity is determined by the Personal Care Assistance Service Level Computation Chart (SLC).[6] The SLC specifies the time allotted for each ADL based on the level of physical assistance required and the frequency with which the assistance is needed. The list of available services, time allotments, and maximum daily frequencies are described in the P*ersonal Care Services Service Level Computation* instructions, which are adopted by reference into regulation.[7]

Not all activities or needs qualify for PCS coverage. PCS are furnished by a Personal Care Assistant (PCA) and are not authorized for activities the recipient can perform independently, for supervision (except in connection with the ADL of eating), or for oversight and standby functions.[8]

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1 7 AAC 125.010(b)(1)(A).
2 7 AAC 125.030(b).
3 7 AAC 125.030(c).
4 7 AAC 125.030(d). The regulation contains specific conditions that a recipient must satisfy to qualify for these specialized services.
5 *See* 7 AAC 125.020(a)(1). The CAT is itself a regulation adopted in 7 AAC 160.900(d)(6).
6 *See* 7 AAC 125.024(a); 7 AAC 160.900(d)(9); Div. Ex. F pp. 2-3; (3382) Div. Ex. D, pp. 5-6 (3382).
7 *Id.*
8 7 AAC 125.040(a)(4).

PCS are also unavailable for IADLs that a legally obligated parent, guardian, or spouse is able to perform.[9]

A. Activity of Daily Living Scoring

The CAT numerical coding system for ADLs has two components. The first component is the *self-performance code*, which rates how capable a person is of performing a particular ADL. The possible codes are:

> **0 – "Independent."** This code is used if help or oversight was provided no more than twice in the prior seven days.[10]
> **1 – "Supervision."** This code is used if the person requires only "oversight, encouragement, or cueing" while performing the activity.[11]
> **2 – "Limited Assistance."** This Code is used if the person is "highly involved" in the activity" and "received physical help in guided maneuvering of limbs, or other non-weight-bearing assistance" three or more times in the last seven days, or received physical help in guided maneuvering of limbs plus weight bearing assistance no more than twice in the last seven days.[12]
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> **3 – "Extensive Assistance."** This code is used where the person performed part of the activity, but over the past seven days received weight-bearing support and/or full caregiver performance of the activity three or more times.[13]
> **4 – "Total Dependence."** This code is used where there has been full staff/care giver performance of the activity during the entire prior seven days.[14]

The second component of the CAT scoring system is the *support code*, which rates the degree of assistance that a person requires for a particular ADL. The possible codes are:

> **0** – The person required no set up or physical help.
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> **1 –** The person required only setup help.

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[9] 7 AAC 125.040(a)(14); Ms. S's husband and guardian has been deemed capable of performing IADLs, and she is therefore not eligible to receive PCS for them. *See In the Matter of N. S.,* OAH No. 22-0039-MDS (rejected on other grounds by the Commissioner of Health 2022). (web-published with pseudonymous initials; the party at interest in this case was N.S). OAH cases can be found at http://doa.alaska.gov/oah/Decisions/index.html.

[10] A self-performance code of 0 is classified as "Independent – No help or oversight – or – Help/oversight provided only 1 or 2 times during the last 7 days." *See* Div. Ex. E, p. 8 (3381 and 3382).

[11] Supervision includes, "Oversight, encouragement or cueing provided 3+ times during the last 7 days – or – Supervision plus non-weight-bearing physical assistance provided only 1 or 2 times during the last 7 days." *See* Div. Ex. E, p. 8 (3381 and 3382).

[12] Limited assistance with an ADL is defined as, "Person highly involved in activity; received physical help in guided maneuver of limbs, or non-weight-bearing assistance 3+ times – or – Limited assistance (as just described) plus weight-bearing 1 or 2 times during the last 7 days." *See* Div. Ex. E, p. 8 (3381 and 3382).

[13] Extensive assistance is defined as, "While person performed part of activity, over last 7-day period, help of following type(s) provided 3 or more times: Weight bearing support [;] Full staff/caregiver performance during part (but not all) of the last 7 days." *See* Div. Ex. E, p. 8 (3381 and 3382).

[14] Total dependence is defined as, "Full staff/caregiver performance of activity during ENTIRE 7 days." *See* Div. Ex. E, p. 8 (3381 and 3382).

2 – The person required a one-person physical assist.

3 – The person required a physical assist from two- or more people.[15]

B. PCS Eligibility

A person qualifies for PCS if the recipient requires a limited or greater degree of physical assistance— a self-performance code 2, 3, or 4, and a support code of 2, 3, or 4—for any one of the following ADLs: transfers, locomotion, eating, toileting, dressing or bathing. Mere monitoring, supervision, or cueing will not confer PCS eligibility. A medically documented need for supervision while eating, however, does confer eligibility.[16] The codes assigned to a particular ADL determine the amount of PCS time authorized. For instance, if a person is coded as requiring extensive assistance (self-performance code 3) with bathing, he or she would receive 22.5 minutes of PCS time every day he or she is bathed.[17]

III. Overview of Home and Community Based Waiver Programs

The Alaska Medicaid program provides Waiver services to adults with physical or intellectual or psychiatric disabilities who require nursing facility level of care but want to live at home or in the community instead of in an institution or nursing facility.[18] The level of care that is provided in a nursing facility is described by regulation. Skilled nursing facility services are defined in 7 AAC 140.515; intermediate care facility services are defined in 7 AAC 140.510.

The Division determines whether an applicant requires a nursing level of care services by assessing the applicant's physical, emotional, and cognitive functioning using the Consumer Assessment Tool (CAT).[19] This is the same tool used to determine PCS eligibility as described above. The CAT records an applicant's needs for professional nursing services, therapies, and special treatments, and whether an applicant has impaired cognition or displays problem behaviors.[20] Each of the assessed items is coded and contributes to a final numerical score. If the applicant's score is 3 or higher, the applicant is eligible for Waiver services.[21] There are a number of ways to score a sufficient number of points on the CAT to qualify for services.

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15 *Id.* There are additional codes which are not used to arrive at a service level.

16 7 AAC 125.020(c)(1).

17 7 AAC 125.024(a); 7 AAC 160.900(d)(29) (PCS SLC); Div. Ex F, pp. 2-3 (3382); Div. Ex. D, pp. 5-6 3382).

18 7 AAC 130.200.

19 7 AAC 130.215(4).

20 Div. Ex. E, pp. 14-19 (both cases 3381 and 3382).

21 Div. Ex. E, pp. 34-36 (both cases 3381 and 3382).

For a person who only has physical assistance needs, to score as eligible for Waiver services on the CAT, he or she needs 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 ADLs (bed mobility, transfers, locomotion within the home, eating, and toileting).[22] A person can also receive points for combinations of required professional nursing services, therapies, severely impaired cognition (memory/reasoning difficulties), or extensive difficult behaviors (wandering, abusive behaviors, etc.), and if they require either limited or extensive assistance with the five specified ADLs.[23]

IV. Facts

A. N.S's Condition During the 2025 CAT

Ms. S is a fifty-one-year-old woman. She has a variety of health issues including hypothyroidism, bipolar disorder, paranoid schizophrenia, obsessive compulsive disorder, depression, PTSD, GERD, sick sinus syndrome with pacemaker, seizure disorder, restless leg syndrome, lumbar post-laminectomy syndrome, chronic neck, low back, left shoulder, bilateral knee joint, bilateral wrist and bilateral hip pain, obesity with gastric bypass surgery, asthma, incontinence and neurogenic bladder, two traumatic brain injuries, memory problems, osteoarthritis with bilateral knee replacements, a parkinsonian tremor, weakness in her legs, decreased range of motion in both knees and abnormal right lower strength and abnormal left upper strength.[24] Ms. S underwent a right total hip arthroplasty in November 2024 and a left hip total arthroplasty on August 20, 2025.[25]

Ms. S lives with her husband and legal guardian F.S.[26] In September 2025, Ms. S applied for Waiver services.[27] For purposes of her Waiver services application, an in-home assessment was conducted on October 10, 2025.[28] The Division denied Ms. S eligibility for Waiver services

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[22] Div. Ex. E, p. 34 (both cases 3381 and 3382).

[23] Div. Ex. E, pp. 34-34 (both cases 3381 and 3382).

[24] Div. Ex. E, p. 4 (3381 and 3382); Div. Ex. G, pp. 36, 37, 47, 49, 56, 57, 61, 62 (3381), *In the Matter of N.S*, OAH Case No, 24-0787-MDS Commissioner of Health 2025, p. 4 (relying upon medical records generated less than 12 months before the October 2025 CAT).

[25] Div. Ex. E, p. 4 (3381 and 3382); Div. Ex. G, p. 13 (3381). Melissa Meade claimed the Division had no knowledge of either hip surgery. (1:57:12 at 1/20/26 hearing). However, Ms. Meade was directly involved in multiple discussions and amendment submission issues regarding the November 2024 hip surgery, and during the hearings held in OAH case 24-0787-MDS. *See In the Matter of N.S*, OAH Case No, 24-0787-MDS Commissioner of Health 2025, p. 10 (citing the November 13, 2024, hip replacement surgery).

[26] Div. Ex. E, p. 4 (3381 and 3382); Div. Ex C, pp. 5-13 (3381); Div. Ex C, pp 2-10 (3382).

[27] Div. Ex. G, pp. 1-6 (3381).

[28] Div. Ex. E, p. 1 (3381 and 3382).

and subsequently used the October 10, 2025, assessment to reduce her PCS hours from 18 hours to 16.50 hours per week.[29] Ms. S filed a hearing request in response to both the denial of Waiver services and the reduction of her PCS hours.[30]

B. October 2025 Assessment

Assessor Ryan Evans conducted an in-person assessment in the Ss' home on October 10, 2025.[31] In addition to performing a CAT assessment, Mr. Evans reviewed various medical records and the original, unrevised November 2024 CAT. He did not review the May 2025 Commissioner decision in OAH Case 24-0787-MDS, which contained the most recent findings regarding Ms. S's physical assistance needs and frequencies.[32]

For the ADL of bed mobility, Mr. Evans assigned a self-performance score of 2 (limited assistance) and a support score of 2 (one-person physical assist).[33] His written observation noted that to move from a lying to upright seated position, Mr. S supported Ms. S's upper torso while she held his arms and upper torso, and then Mr. S repositioned her legs to the floor.[34] This represented an increase from Ms. S's prior scores of 0 (independent) for self-performance and 0 (no setup or physical help) for support.[35] The 2025 Commissioner decision had found that the prior 0/0 scores were not properly supported—however, because the assessment in that proceeding was limited to PCS hours and Ms. S had met the regulatory frequency cap for bed mobility, no PCS time could be authorized and the decision declined to assign a specific replacement score.[36] The October CAT 2/2 score thus reflects the first formal scoring of this ADL since the 2025 decision identified the deficiency.[37]

For the ADL of transfers, the October 2025 assessment scored Ms. S with a self-performance score of 3 (extensive assistance) and a support score of 2 (one-person physical assist.[38] This score was consistent with the score assigned in the 2025 Commissioner decision, which had supported Ms. S's prior authorization of 18.50 hours of PCS per week.[39]

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29 Div. Ex. D (3381 and 3382).
30 Div. Ex. C (3381 and 3382).
31 Div. Ex. E, p. 1 (3381 and 3382).
32 Div. Ex. E, p. 5 (3381 and 3382); *see also* testimony of Ryan Evans (38:55-40 at 1/20/26 hearing).
33 Div. E, p. 9 (3381 and 3382)
34 *Id*.
35 Ex. D, P. 8 (3382).
36 *In the Matter of N.S*, OAH Case No, 24-0787-MDS, p. 8, (Commissioner of Health 2025).
37 Ex. D, P. 8 (3382).
38 Div. Ex. E, p. 9 (3381 and 3382).
39 Ex. D, P. 8 (3382).

For the ADL of locomotion, the 2025 assessment scored Ms. S with a self-performance score of 0 (independent) and a support score of 1 (setup help only).[40] Ms. S described her difficulties with locomoting as feeling as though her legs may give out, requiring additional balance support.[41] The assessor noted that Mr. S stands behind Ms. S holding her gait belt.[42] Both the 2024 CAT assessment and the 2025 Commissioner decision found that a score of 1 (supervision) for self-performance and 1 (setup help only) for support, reflecting Ms. S's need for supervision while locomoting.[43] The October 2025 assessment thus reduced Ms. S's self-performance score from 1 to 0.

For the ADL of dressing, the 2025 assessment scored Ms. S with a self-performance score of 2 (limited assistance) and a support score of 2 (one-person physical assist).[44] Mr. Evans' observation notes reflected that Ms. S was able to dress her upper body with limited assistance.[45] During his testimony, Mr. Evans described Ms. S as able to move her legs but not bear their weight; once her legs were positioned into her pants she was able to participate in dressing her lower body, though he did not get a sense of weight bearing assistance being required for her upper body.[46] The 2025 Commissioner decision had found a self-performance score of 3 (extensive assistance) appropriate based on weight bearing support required for dressing Ms. S's lower body.[47] Mr. Evans did not review the Commissioner decision prior to following the assessment.[48] Testifying for the Division, Melissa Meade stated that she felt the 2/2 score was appropriate because Ms. S had undergone surgery but she did not elaborate on exactly how Ms. S's actual post-surgery condition supported that conclusion.[49] Ms. S's PCS provider, D.J, testified that she was familiar with the dressing score assigned in the 2025 Commissioner decision and that Ms. S had not shown substantial improvement in her functional ability; and in her view, the score should have remained 3/2.[50]

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40 Div. Ex. E., pp. 9-10 (3381 and 3382).
41 Div. Ex. E, p. 10 (3381 and 3382).
42 *Id.*
43 Div. Ex. F, p. 11 (3382); Div. Ex. D, p. 8 (3381); *In the Matter of N.S*, OAH Case No, 24-0787-MDS, p. 15, (Commissioner of Health 2025).
44 Div. Ex. E, p. 10 (3381 and 3382).
45 *Id.*
46 Testimony of Ryan Evans 2:05:40-2:07:10 hearing held 1/14/26.
47 *In the Matter of N.S*, OAH Case No, 24-0787-MDS, p. 16, (Commissioner of Health 2025).
48 Testimony of Ryan Evans 38:55-40:00 hearing held 1/20/26.
49 Testimony of Melissa Meade, 2:13:00 hearing held on 1/20/26.
50 Testimony of D.J, 1:40:06 hearing held 1/26/26.

For the ADL of eating, the 2025 assessment scored Ms. S with a self-performance score of 0 (independent) and a support score of 1 (set up help only).[51] The Division's November 5, 2025 adverse action letter included a chart suggesting this represented an increase in Ms. S's support score; however, the chart was incorrect.[52] Both the 2024 CAT assessment and the 2025 Commissioner decision reflect a score of 0/1, confirming that the October 2025 score is consistent with Ms. S's prior score for this ADL.[53]

For the ADL of toileting, the October 2025 assessment maintained Ms. S's self-performance score of 3 (extensive assistance) and support score of 2 (one-person physical assist); however, the Division reduced her authorized toileting frequencies from 56 to 42 per week.[54] Both of the Division's witnesses—Mr. Evans and Ms. Meade—conceded at hearing that there was no basis for reducing Ms. S's toileting frequencies and that they should be restored to 56 times per week.[55]

The October 2025 assessment maintained Ms. S's personal hygiene score at a self-performance score of 2 (limited assistance) and a support score of 2 (one-person physical assist.[56] It also maintained her bathing score at a self-performance score of 3 (extensive assistance) and a support score of 2 (one-person physical assist).[57]

C. The History of Ms. S's PCS Hours Since 2016

Ms. S has been involved in multiple prior PCS reduction hearings. In 2016, the Commissioner found that Ms. S had been under-scored in several ADL areas and ordered an increase in her hours.[58] In 2017, the Division terminated her PCS entirely following a post-surgery review; the Commissioner again found the scoring inadequate and reinstated her hours, finding she had been under-scored on transfers, toileting, and bathing.[59] In 2022, the Division reduced her hours from 13.5 to 9.75 per week by eliminating PCS for transfers and reducing her toileting hours;

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51 Div. Ex. E, pp. 10-11 (3381 and 3382).

52 Div. Ex. D, p. 8 (3382).

53 Div. Ex. F, p. 11 (3382); *In the Matter of N.S*, OAH Case No, 24-0787-MDS, pp. 16-17, (Commissioner of Health 2025)

54 Div. Ex. E, p. 11 (3381 and 3382); Div. Ex. D, p. 8 (3382).

55 Testimony of Ryan Evans, 40:00-43:57 hearing held 1/20/26; *see also* testimony of Melissa Meade 2:04:00 hearing held 1/20/26.

56 Div. Ex. D, p. 8 (3382).

57 *Id.*

58 *See In the Matter of N S,* OAH 16-1136-MDS, p. 5 (Commissioner of Health & Soc. Serv. 2016) (web-published with pseudonymous initials; the party at interest in this case was N.S).

59 *See In the Matter of N S*, OAH 17-0774-MDS pp. 5-6 (Commissioner of Health & Soc. Serv. 2017) (web-published with pseudonymous initials; the party at interest in this case was N.S).

the Division reversed those reductions and reinstated her hours before the scheduled hearing.[60] In the most recent Commissioner decision issued five months before the October 2025 assessment, the Division again decreased Ms. S's PCS hours from 12.75 to 11 hours per week based on a reduction of toileting frequencies and escort time, and again the Division reversed those reductions and reinstated her hours before the scheduled hearing.[61] The Commissioner found that Ms. S had been under-scored in several ADL areas and ordered an increase in her hours to the 18 hours per week at issue in this matter.[62]

V. Discussion

A. Burden of Proof

Ms. S was previously authorized for 18.50 hours of PCS per week. Because the Division seeks to reduce her PCS hours to 16.00 hours per week, the Division bears the burden of proving by a preponderance of the evidence that the reduction is warranted.[63] As an applicant for Waiver services, Ms. S bears the burden of showing, by a preponderance of the evidence, that she is eligible for Waiver services.[64]

B. The Reduction of PCS Hours

1. Areas of Dispute

For purposes of the reduction of Ms. S's PCS hours from 18.50 to 16.00 hours per week, two ADLs account for the reduction: toileting frequencies and dressing. Although Ms. S's locomotion score was also reduced, that reduction had no effect on her authorized PCS time and will be addressed in conjunction with the denial of Waiver services eligibility below.

2. ADL – Toileting

The ADL of toileting encompasses how a person uses the toilet, transfers on and off the toilet, and adjusts their clothing.[65] Ms. S's self-performance score of 3 (extensive assistance) and a support score of 2 (one-person physical assist) are not in dispute. The Division, however, reduced her authorized toileting frequencies from 56 to 42 per week. Both of the Division's

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60 *See In the Matter of N S*, OAH 22-0039-MDS. P. 6 (Commissioner of Health (2022) (web-published with pseudonymous initials; the party at interest in this case was N.S).

61 *In the Matter of N.S*, OAH Case No, 24-0787-MDS Commissioner of Health 2025.

62 *Id.*

63 7 AAC 125.026; 7 AAC 49.135.

64 7 AAC 49.135.

65 Div. Ex. E, p. 11 (3381 and 3382).

witnesses testified at hearing that this reduction was not warranted and should be reversed, and the Division presented no evidence establishing the basis for the reduction.

The maximum daily frequencies permitted for toileting are 8 per day or 56 per week.[66] The SLC authorizes 9 minutes of PCS time per frequency for a toileting score of 3/2, yielding a maximum of 504 minutes per week.[67] Restoring Ms. S's frequencies from 42 to 56 per week increases her authorized toileting time from 6.3 hours per week to 8.4 hours per week— a difference of 2.1 hours, representing the bulk of the 2.5-hour reduction at issue.[68] The Division has not met its burden to sustain the reduction in toileting frequencies. Ms. S's toileting frequency must be reinstated to 8 times per day, or 56 times per week.

3. ADL – Dressing

The ADL of dressing encompasses how a person puts on and takes off clothing.[69] In the October 2025 assessment, Mr. Evans reduced Ms. S's self-performance score for dressing from 3 (extensive assistance) to 2 (limited assistance), while maintaining her support score at 2 (one-person physical assist). The Division bears the burden of establishing that this reduction was warranted.

The 2025 Commissioner decision found a self-performance score of 3 appropriate based on the weight-bearing support required to dress Ms. S's lower body. Mr. Evans testified that he observed Ms. S move her legs but not bear their weight, and that once her legs were positioned into her pants she was able to participate in dressing her lower body. This observation is consistent with the weight-bearing assistance that formed the basis of the 3/2 score in the 2025 Commissioner decision — Mr. Evans simply did not characterize it the same way.

Mr. Evans acknowledged that he did not review the 2025 Commissioner decision prior to or following the completion of his assessment. Ms. Meade testified that the reduced score was appropriate because Ms. S's condition had changed, but she did not identify what specific change she was relying upon. Ms. J, who provides PCS to Ms. S and is familiar with the 2025 Commissioner decision, testified that Ms. S had not shown substantial improvement in her functional ability and that the score should have remained 3/2.

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66 Div. Ex. D, p. 5 (3382) (8 frequencies x 7 days = 56).

67 *Id.*

68 42 times x 9 minutes =378 minutes /60 minutes = 6.3 hours; 56 times x 9 minutes = 504 minutes / 60 minutes = 8.4 hours; 8.4-6.3=2.1.

69 Div. Ex. E, p. 10 (3381 and 3382).

The Division has not met its burden of establishing that a reduction in Ms. S's dressing self-performance score from 3 to 2 was warranted. The only evidence offered in support of the reduction was Ms. Meade's vague reference to an unspecified change in Ms. S's condition — unsupported by any specific observation or clinical documentation that Ms. S can now lift her legs to dress herself and no longer needs weight-bearing assistance for dressing her lower body. Mr. Evans's own observations, fairly read, are consistent with the weight-bearing assistance previously found to support a score of 3. Ms. S's dressing self-performance score is reinstated to 3 (extensive assistance), with a support score of 2 (one-person physical assist), and her PCS hours shall be reinstated accordingly.

C. The Denial of Waiver Eligibility

To qualify for Waiver services based solely on physical assistance needs, a recipient must be scored on the CAT with 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 qualifying ADLs.[70] "Extensive Assistance" is defined as the recipient performing part of the activity but requiring weight-bearing support and/or full caregiver performance three or more times during part of the 7-day period preceding the assessment.[71] "Total Dependence" is defined as requiring full caregiver performance of the activity during the entire 7-day period preceding the assessment.[72]

The October 2025 assessment scored Ms. S on two of the qualifying ADLs: toileting and transferring with a 3/2 score.[73] The scoring on the ADL of bed mobility is contested.

1. Bed Mobility

The ADL of bed mobility refers to a recipient's ability to move to and from a lying position or turn from side to side in bed.[74] In the October 2025 assessment, the assessor assigned a self-performance score of 2 (limited assistance) and a support score of 2 (one-person physical assist). Ms. S bears the burden of establishing that a higher score is warranted.

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70 Div. Ex. E, p. 34 (3381 and 3382).
71 Div. Ex. E, p. 8 (3381 and 3382).
72 *Id.*
73 Div. Ex. E, p. 13 (3381 and 3382).
74 Div. Ex. E, p. 9.

The assessor's written observations do not support a score of limited assistance. Mr. Evans noted that to move from a lying to an upright seated position, Mr. S supported Ms. S's upper torso while she held his arms and upper torso, and then repositioned her legs to the floor.[75] In the CAT, "limited assistance" is defined as a guided maneuver of limbs or non-weight-bearing assistance. By contrast, "extensive assistance" (score 3) is required when a recipient performs part of the activity but requires weight-bearing support three or more times during the week.[76]

Supporting a person's upper torso and manually repositioning their legs to the floor constitutes weight-bearing support, not a mere guided maneuver. As the Commissioner has previously noted, weight-bearing assistance exists where the recipient could not perform the task without the caregiver supporting a portion of the recipient's weight.[77] Because Ms. S could not independently move to a seated position or move her legs to the floor without Mr. S physically taking on the weight of her torso and limbs, a score of 2 (limited assistance) is contradicted by the assessor's own observations. Accordingly, Ms. S's bed mobility self-performance score is increased to 3 (extensive assistance), with a support score of 2 (one-person physical assist).

2. Locomotion

The ADL of locomotion encompasses how a person moves between locations on the same floor, whether by walking or using a wheelchair or other assistive device.[78] In the October 2025 assessment, the assessor reduced Ms. S's self-performance score for locomotion from 1 (supervision) to 0 (independent), while maintaining her support score at 1 (setup help only). Ms. S bears the burden of establishing that the prior score of 1/1 should be restored.

Both the 2024 CAT assessment and the 2025 Commissioner decision found a self-performance score of 1 (supervision) appropriate, reflecting Ms. S's need for oversight while locomoting due to the risk that her legs may give out. The assessor's observation notes confirm that Mr. S walks behind Ms. S holding her gait belt while she locomotes. Ms. S reported during the assessment that she experiences her legs giving out while moving and requires support for balance. This is consistent with the description provided in the 2025 Commissioner's decision.

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[75] "To move from the lying to the more upright seated position, F moved to support N's left upper torso as she held his arms and upper torso, and then he assisted with repositioning her legs to the floor." *Id.*

[76] Div. Ex. E, p. 8.

[77] *See In re KT-Q*, OAH No. 13-0271-MDS (Commissioner of Health and Social Services 2013); *In re M.C.,* OAH No. 13-1191-MDS (Commissioner of Health and Social Services 2014); *In re D.M.*, OAH No. 17-0912-MDS (Commissioner of Health and Social Services 2017); *In re C.D.*, OAH No. 18-0405-MDS (Commissioner of Health and Social Services 2018); *In re M.L.,* OAH No. 23-0590-MDS (Commissioner of Health 2023).

[78] Div. Ex. E, p. 9 (3381 and 3382).

Although she is able to ambulate using her assistive devices, she continues to require Mr. S to walk behind her holding her gait belt.

A self-performance score of 0 (independent) is defined as requiring no help or oversight. A self-performance score of 1 (supervision) is defined as requiring oversight, encouragement, or cueing provided three or more times during the prior seven days, or supervision plus non-weight-bearing physical assistance provided one or two times during the prior seven days. Mr. S's practice of walking behind Ms. S holding her gait belt constitutes supervision within the meaning of that definition — it is precisely the kind of ongoing oversight that distinguishes a score of 1 from a score of 0.[79]

Accordingly, Ms. S's locomotion self-performance score is restored to 1 (supervision), with a support score of 1 (setup help only). Although the correction of Ms. S's locomotion self-performance score from 0 to 1 does not independently affect Waiver eligibility, a corrected score is necessary to provide an accurate reflection of Ms. S's assistance needs and must be incorporated into the Division's service level assessment.

3. Overall Scoring

To qualify for Waiver services, a recipient must meet the required level of need in a minimum number of qualifying ADLs as scored on the CAT. With the bed mobility self-performance score corrected to reflect her extensive assistance needs—a score of 3—Ms. S has three qualifying ADLs scored at the level required for Waiver services: bed mobility, transfers, and toileting. Accordingly, Ms. S meets the eligibility threshold for Waiver services and the Division's denial of her application is REVERSED.

VI. Conclusion

The Division has not met its burden of establishing that a reduction in Ms. S's PCS hours is warranted. Based on the findings discussed, her PCS hours must be adjusted to reflect the increased toileting frequencies and dressing self-performance score.

Ms. S has met her burden of establishing eligibility for Waiver service. As to the adjustment of her bed mobility self-performance score to 3 (extensive assistance), the evidence establishes that Ms. S requires extensive assistance with three qualifying ADLs, meeting the

[79] *See In the Matter of E.O.D.*, OAH Case No. 14-0565-MDS, p. 7 (Commissioner of Health and Social Services 2014).

threshold for Waiver eligibility. The Division's denial of Ms. S's application for Waiver services is REVERSED.

Dated: April 9, 2026

Signed

James Fayette
Administrative Law Judge

Adoption and Order

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.

IT IS FURTHER ORDERED:

I. The Division of Senior and Disabilities Services (SDS) shall place a copy of this decision and the 2025 Commissioner's Decision in Ms. Robinson's case file within the Harmony system.

II. SDS shall ensure that both decisions are reviewed and considered during Ms. Robinson's next support plan and service level authorization review.

III. SDS shall take any administrative steps necessary to ensure that these decisions are readily accessible to staff responsible for conducting that review.

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 28th day of April, 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 for publication. Names may have been changed to protect privacy.]