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

In the Matter of	)	
	)	
X. J.	)	OAH No. 26-0381-MDS
	)	

DECISION

I. Introduction

X. J. is a Medicaid recipient who applied for services under the Alaskans Living Independently Waiver ("Waiver"). The Division of Senior and Disabilities Services ("Division") denied his application, finding him ineligible because he does not require a nursing facility level of care. Mr. J.'s own testimony confirms that finding. Accordingly, the Division's denial of his application is AFFIRMED.

II. Facts

Mr. J. is a seventy-year-old intermittently homeless man with severe bi-lateral hearing loss.[1] A 2003 stroke rendered the left side of his body particularly weak and left him wheelchair-bound, though he maneuvers the chair himself.[2] He is mobile in bed and can bring food or drinks to his mouth without help.[3] He stood up without physical assistance to be sworn in at hearing and can transfer independently most of the time.[4] He needs assistance securing his wheelchair during transfers so that it does not roll, and he sometimes receives weight-bearing assistance getting into his wheelchair from his bed, though he avers this help is not necessary.[5] Mr. J. is capable of independent toileting.[6] He displayed no problematic behavior or significant cognitive deficits at hearing, and nothing in the record demonstrates he has significant problems in either area. Although he has been prescribed physical therapy, Mr. J. has declined to participate.[7]

---

1 Ex. G at 4, 18.

2 Ex. E at 8; testimony of X. J. Some of Mr. J.'s medical records state he is not wheelchair bound. *See, e.g.*, Ex. G at 24. The Division, however, conceded that was likely an error and evaluated Mr. J. as wheelchair bound.

3 Ex. E at 7; testimony of X. J.

4 Ex. E at 8 – 9; testimony of X. J.

5 Testimony of X. J.

6 *Id.*

7 Ex. G at 71.

Mr. J. was assessed for Waiver eligibility by Division assessor Christina Earhart on April 6, 2026.[8] The Division denied his application on April 23, 2026.[9] On April 27, 2026, N. G.-S., a case manager at a homeless shelter where Mr. J. was staying, submitted a timely hearing request on his behalf.[10]

A hearing was held on June 25, 2026. Francis Stuckey and Victoria Cobo-George represented the Division; Division Assessor Earhart and her supervisor, David Chadwick, testified on its behalf. Mr. J. testified on his own behalf, and was assisted by H. K., a behavioral health support worker at his homeless shelter, and Ms. G.-S..

III. Discussion

A. Burden of Proof

An initial applicant for Waiver bears the burden of proving eligibility by a preponderance of the evidence.[11] A party may meet that burden with any evidence on which reasonable people might rely in the conduct of serious affairs.[12] The relevant date for assessing the facts is generally the date of the Division's decision under review.[13] For this case that date is April 23, 2026, the date the Division informed Mr. J. that his Waiver application was denied.

B. Method for Determining Nursing Facility Level of Care Requirements

The Alaska Medicaid program provides Waiver services to adults with physical disabilities who require "a level of care provided in a nursing facility."[14] Whether an applicant meets that requirement is determined by a Division assessor using the Consumer Assessment Tool (CAT).[15] The CAT is itself a regulation as it is adopted by reference.[16] The CAT records a range of information about an applicant, including need for professional nursing services, therapies, and special treatments, as well as whether the applicant has serious cognitive or behavioral issues.[17] The CAT also records the degree of assistance an applicant requires for

---

8 Ex. C at 4.
9 *Id.*
10 Ex. C at 6.
11 7 AAC 49.135.
12 2 AAC 64.290(a)(1).
13 *See* 7 AAC 49.170; *In re T.C.*, OAH No. 13-0204-MDS (Comm'r of Health & Soc. Serv. 2013) (https://aws.state.ak.us/OAH/Decision/Display?rec=2856).
14 7 AAC 130.205(d)(4).
15 7 AAC 130.213; 7 AAC 130.215.
16 7 AAC 160.900(d)(6), (adopting January 29, 2009, version of the CAT).
17 Ex. E.)

activities of daily living (ADLs), including, among others, five "shaded" ADL categories.[18] These five ADLs—the only ADLs that can contribute towards demonstrating an applicant requires a nursing facility level of care—are known as the "BELTT" ADLs.[19] They are bed mobility, eating, locomotion within the home, transfers, and toileting.[20] During an evaluation, each of these ADLs and other categories are evaluated. The results are then entered into an algorithm at the end of the CAT, which determines whether the applicant requires a nursing facility level of care.[21]

As an example, for an applicant whose needs are only physical, to receive credit towards Waiver eligibility through a BELTT ADL, they must receive a self-performance code of 3 (extensive assistance) or 4 (total dependence). A score of extensive assistance means the applicant needs weight-bearing support, or full caregiver performance of that ADL three or more times a week.[22]

C. Mr. J.'s Eligibility

To require a nursing facility level of care, an applicant must score a three or more in the algorithm at the end of the CAT.[23] Because Mr. J. does not suffer from seizures or participate in therapy, and has no need for professional nursing services such as ventilators, injections, or feeding tubes, his paths to that score are limited. He could demonstrate that he requires extensive assistance with three or more BELTT ADLs.[24] Or, he can demonstrate that he requires extensive assistance with fewer BELTT ADLs, while also exhibiting significant cognitive or behavioral issues.[25]

The Division scored Mr. J. as fully independent, needing no assistance with any BELTT ADL. If accurate, that scoring forecloses both routes to eligibility. At hearing, Mr. J.'s testimony largely supported the Division's findings. He described in detail the process he uses to toilet independently, and he had no doubt about his ability to eat a hamburger, get around in his

---

[18] The current CAT no longer actually shades these ADLs, however, they are still identified in the CAT as "shaded." *See* Ex. E at 30 – 32.

[19] *See,* Ex. E. at 30 – 32, (the CAT's algorithm that determines whether an assessed individual requires a nursing facility level of care).

[20] Ex. E.

[21] *Id.* at 30 – 32.

[22] Ex. E at 7.

[23] *Id.*

[24] *Id.*

[25] Ex. E. at 30 – 32. As Mr. J. does not exhibit severe behavioral or cognitive issues, and no party argued he does, the nuances of a nursing facility level of care demonstration under that path are not examined in depth here.

wheelchair, or move around in bed.[26] He acknowledged receiving some weight-bearing assistance getting out of bed and into his chair every day, but denied it was necessary. He even demonstrated at hearing that he could stand without physical assistance.

That said, Mr. J. was proud of his capabilities and may have overstated how easily he completes ADLs independently. His testimony on transfers was inconsistent, and he arguably requires weight bearing assistance transferring from bed to wheelchair frequently enough to qualify as requiring extensive assistance with transfers. However, even if the Division had determined Mr. J. needed extensive assistance with transfers, no evidence suggests he requires extensive assistance with two other BELTT ADLs. He persuasively testified that he is "disabled, but not unable" to complete the remaining BELTT ADLs independently. And while Mr. K. and Ms. G.-S. expressed understandable concerns about Mr. J.'s self-care abilities, both conceded that transfers was the only BELTT ADL for which they could argue he needs extensive physical assistance.

An applicant requiring extensive assistance with only a single BELTT ADL could still require a nursing facility level of care, but only by earning two more points in the algorithm.[27] For Mr. J., that would require demonstrating both significant cognitive and behavioral issues.[28] While Mr. J. is very hard of hearing and repeated himself a number of times at hearing, no evidence or argument suggests he experiences cognitive or behavioral issues of the severity required to qualify him for Waiver.[29]

IV. Conclusion

At hearing, Mr. J.'s representatives argued that he qualified for Waiver due to his need for assistance with dressing, laundry, meal preparation, bathing, transportation to medical appointments, and other tasks. The CAT does ask about those needs—understandably suggesting they might matter here—but that is because the CAT is used for other benefit programs, not just Waiver. Only the factors included in the CAT's algorithm bear on the legal determination of whether an applicant requires a nursing facility level of care, and Mr. J.'s needs in those areas do

---

[26] Testimony of X. J..
[27] Ex. E at 30 – 32.
[28] *Id.*
[29] *See Id.* at 15 – 18, 31 – 32, (CAT sections demonstrating cognitive and behavioral scores sufficient to count towards a nursing facility level of care would require Mr. J. to exhibit conditions such as severe memory and communication issues, constant confusion, unawareness of his own needs, and abusive or dangerous behaviors.)

not meet the eligibility threshold. Because Mr. J. does not meet the eligibility criteria for the benefit he applied for, the Division's denial of his Waiver application is AFFIRMED.

Dated: July 20, 2026

SIGNED
Garrison A. Todd
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 3rd day of September, 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.]