STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0877

Nicole Monique Collins,
Appellant,

vs.

Commissioner of Minnesota Department of Human Services,
Respondent.

Filed March 13, 2023
Affirmed
Wheelock, Judge

Ramsey County District Court
File No. 62-CV-21-1466

Brianna H. Boone, Southern Minnesota Regional Legal Services, Inc., St. Paul, Minnesota (for appellant)

Keith Ellison, Attorney General, João C.J.G. de Medeiros, Assistant Attorney General, St. Paul, Minnesota (for respondent)

Considered and decided by Wheelock, Presiding Judge; Worke, Judge; and Smith, Tracy M., Judge.

NONPRECEDENTIAL OPINION

WHEELOCK, Judge

Appellant challenges the district court's order affirming the decision of respondent commissioner of human services to disqualify appellant for seven years from employment providing direct care to persons served by programs that the department of human services licenses. The commissioner's decision was based on a determination that appellant

seriously maltreated a vulnerable adult. Appellant argues that the commissioner (1) deprived appellant of her right to procedural due process; (2) improperly relied on inherently unreliable hearsay evidence, rendering the decision arbitrary and capricious; and (3) relied solely on hearsay evidence to reach a decision that was not supported by substantial evidence. We affirm.

FACTS

In March 2020, the Minnesota Department of Human Services (DHS) notified appellant Nicole Monique Collins that it had determined, pursuant to Minn. Stat. § 626.5572 (2022), that she seriously maltreated a vulnerable adult, A.L., and that DHS had disqualified Collins under Minn. Stat. § 245C.14 (2022) from holding any position allowing direct contact with persons receiving services from programs it licenses. At the time of the alleged maltreatment, A.L. lived in a DHS-licensed group-foster-care residence managed by REM Ramsey. A.L. is nonverbal and is diagnosed with autism, profound intellectual disabilities, and obsessive-compulsive disorder. Collins served as REM Ramsey's program supervisor for the residence.

Collins filed a request for reconsideration of the decision, and DHS affirmed the disqualification. Collins then filed an administrative appeal with DHS and requested a fair hearing. A fair hearing was held before a human-services judge (HSJ) over two days in January 2021.

At the fair hearing, the HSJ heard testimony from a DHS investigator, who testified that she interviewed the following individuals: Collins; a REM Ramsey program director with knowledge of Collins, A.L., and the facility; the other residents of the

group-foster-care home; and M.H., a REM Ramsey employee who began working at the home shortly before the alleged incident. M.H. reported the alleged maltreatment. In addition, the investigator conducted a site visit and reviewed facility records.

The investigator testified about her interview with M.H. and the contents of her written investigation data summary and her investigation report; both documents were admitted into evidence. DHS subpoenaed M.H. as a witness, but it did not call her as a witness, and she did not appear at the hearing.[1] Collins objected on the basis of hearsay to the admission of M.H.'s statements through the investigator's written report. The HSJ overruled the objection.

DHS introduced several of M.H.'s statements through the investigator. M.H. had reported to the investigator that on January 4, 2020, she observed Collins become frustrated with A.L. for repeatedly returning to her room to change her clothes after being asked multiple times to sit down in the dining room. M.H. told the investigator that she witnessed Collins grab A.L. by the arm, pull A.L. into the dining room, and, holding her by both arms, force A.L. down into a chair. The investigator described the chair as a "wooden dining chair." M.H. stated that no one else observed the incident and that afterwards another resident came out of her room and asked what happened.

M.H. told the investigator that two days later, she observed fading bruises on A.L.'s arms shaped "like a couple of fingers" and a "long oval" bruise "midway between both butt

[1] DHS provided no explanation on the record for why it did not call M.H. as a witness at the administrative fair hearing. At the district court hearing, DHS stated that although M.H. had agreed to testify, she did not respond to DHS's later attempts to contact her, and DHS ultimately discovered that she had moved out of state to Nebraska.

cheeks" that was a "purplish vibrant color." M.H. stated that she called the bruises to the attention of Collins, who was her supervisor, but Collins told her not to worry about it. M.H. stated that the day after she spoke with Collins, she told a different staff member who was filling in for Collins about the bruises. That staff member then assisted M.H. in contacting a REM Ramsey Quality Improvement (QI) specialist, who recorded M.H.'s account of Collins pushing A.L. into a chair and the bruising M.H. observed on A.L. in an incident report.

In addition to the investigator's testimony, DHS presented evidence including body- and skin-check forms REM Ramsey staff completed between January 6 and 9, 2020, documenting that A.L. "had bruises on her left wrist, left upper arm, and her right buttock"; REM Ramsey's incident report; photographs of A.L.'s bruises; and a medical-referral form with a doctor's documentation of the bruises on A.L.'s left forearm and right buttock.

Collins testified at the fair hearing and disputed M.H.'s account of the incident. Collins testified that she got frustrated at work sometimes and that A.L. often became upset when staff attempted to redirect her obsessive behaviors, such as repeatedly changing clothes. Collins stated that during the incident in question, A.L. pulled on Collins's arm, but Collins removed A.L.'s hand from her wrist and used sign language to ask her to sit down, which A.L. did. Collins submitted as evidence her REM Ramsey performance review and a positive recommendation letter from a former employer. She also called two former coworkers to testify about their experience working with Collins.

Following the hearing, the HSJ issued a written decision recommending that the DHS commissioner affirm the agency's determination that Collins maltreated a vulnerable

adult and its disqualification decision. The commissioner adopted the HSJ's findings and recommendations as DHS's final decision. Collins appealed the decision to district court, and the district court entered a judgment affirming the commissioner's determination "in all respects."

Collins appeals.

DECISION

Our review of a commissioner's maltreatment determination is authorized by Minn. Stat. § 256.045, subd. 9 (2022),[2] which permits a party dissatisfied with district court review to "appeal the order as in other civil cases." *Zahler v. Minn. Dep't of Hum. Servs.*, 624 N.W.2d 297, 300 (Minn. App. 2001) (quoting Minn. Stat. § 256.045, subd. 9), *rev. denied* (Minn. June 19, 2001). When judicial review is authorized by Minn. Stat. § 256.045 (2022), the Minnesota Administrative Procedure Act (MAPA), Minn. Stat. §§ 14.63-.69 (2022), governs the scope of review. *Id.* at 301. The MAPA scope of review permits us to affirm the commissioner's decision, remand for further proceedings, or reverse or modify the decision. Minn. Stat. § 14.69. We reverse or modify the decision only if the petitioner's substantial rights have been prejudiced because the findings, inferences, conclusions, or decisions are, in relevant part, (1) "in violation of constitutional provisions," (2) "unsupported by substantial evidence in view of the entire record as

[2] We cite to the most recent version of Minn. Stat. § 256.045 because it has not been amended substantively as to the issues in this case. *See Interstate Power Co. v. Nobles Cnty. Bd. of Comm'rs*, 617 N.W.2d 566, 575 (Minn. 2000) (stating that, generally, "appellate courts apply the law as it exists at the time they rule on a case"). For the same reason, we also cite to the current versions of other statutes in this opinion.

submitted," or (3) "arbitrary or capricious." *Id.* The party challenging the agency's decision has the burden of proving grounds for reversal. *Johnson v. Minn. Dep't of Hum. Servs.*, 565 N.W.2d 453, 457 (Minn. App. 1997).

Generally, "[a]dministrative agency decisions enjoy a presumption of correctness." *In re Appeal by RS Eden/Eden House*, 928 N.W.2d 326, 332 (Minn. 2019) (quotation omitted). We independently review the commissioner's decision and "grant no deference to the district court's conclusions." *Pfoser v. Harpstead*, 939 N.W.2d 298, 308 (Minn. App. 2020), *aff'd*, 953 N.W.2d 507 (Minn. 2021). "While we generally defer to the administrative agency's expertise and fact-finding, we review questions of law de novo." *Id.*

Collins's arguments are rooted in her assertion that the commissioner should not have relied on hearsay statements to uphold DHS's maltreatment determination and Collins's disqualification. The fair-hearing statutes permit the admission and consideration of hearsay that is inadmissible in a judicial proceeding. Minn. Stat. §§ 256.045, subd. 4(b), .0451, subd. 19 (stating that the HSJ "shall accept all evidence, except evidence privileged by law, that is commonly accepted by reasonable people in the conduct of their affairs as having probative value on the issues to be addressed at the hearing") (2022). Even so, Collins asserts that (1) the HSJ's admission of hearsay evidence deprived her of her right to procedural due process; (2) the HSJ's admission of the hearsay was improper because it was inherently unreliable evidence; and (3) if the hearsay is excluded, the remaining evidence does not substantially support the commissioner's decision.

We conclude that the commissioner's decision did not violate constitutional due-process protections, was not arbitrary or capricious, and was not unsupported by substantial evidence in view of the entire record.

I. The commissioner's decision did not violate Collins's constitutional right to procedural due process.

Collins first argues that admitting M.H.'s hearsay statements violated Collins's right to procedural due process, asserting that because DHS did not call M.H. as a witness, the HSJ was unable to make a fully informed credibility decision about the statements.

Appellate courts review whether the government has violated a person's procedural due-process rights de novo. *Sawh v. City of Lino Lakes*, 823 N.W.2d 627, 632 (Minn. 2012). We apply a two-step analysis: first, we identify whether the government deprived the person of a protected life, liberty, or property interest; second, if the person was deprived of a protected interest, we then determine whether the procedures the government followed in depriving them of that interest were "constitutionally sufficient." *Id.* (quotation omitted).

The parties agree that Collins's property and liberty interests in employment in her chosen field of work and in maintaining her reputation in that field entitle her to procedural due process. *See Fosselman v. Comm'r of Hum. Servs.*, 612 N.W.2d 456, 461 (Minn. App. 2000) (concluding that disqualification proceedings are subject to procedural due-process requirements due to relators' protected property and liberty interests in holding employment and protecting their reputations). We therefore focus on the second part of the inquiry. In doing so, we employ the *Mathews* test to determine whether the government

procedures were constitutionally sufficient. *See, e.g.*, *id.* at 461-62. In *Mathews v. Eldridge*, the United States Supreme Court set forth distinct factors to consider when evaluating whether the procedures used afforded an individual due process:

> First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

424 U.S. 319, 335 (1976). We balance these factors to conclude whether the procedural due process provided to the individual was sufficient. *See, e.g.*, *Sweet v. Comm'r of Hum. Servs.*, 702 N.W.2d 314, 322 (Minn. App. 2005) (balancing *Mathews* factors), *rev. denied* (Minn. Nov. 15, 2005).

A. First *Mathews* Factor: Private Interest Affected by the Action

Collins argues, and the commissioner concedes, that the first *Mathews* factor favors Collins because her disqualification based on the maltreatment determination prohibits her from working in "any direct-care position with a program licensed by DHS and [the department of health], as well as . . . unlicensed Personal Care Provider Organizations, for seven years."

Collins contends that her private interest has significant weight because providing direct care to children and vulnerable adults has been her only career for more than nine years and she is disqualified from working in settings where her experience and education qualify her for employment. Following her disqualification, Collins has been able to find full-time employment as an apartment caretaker but has chosen to work part-time due to

management changes and her desire to balance work with home life. Collins additionally asserts that her disqualification has been "hurtful and stressful," and she perceives that "people judge [her]," implicating her private interest in her good name and reputation. *See Fosselman*, 612 N.W.2d at 461.

The commissioner's decision disqualifies Collins only from working in state-regulated jobs in her field, and her disqualification is not permanent. *See* Minn. Stat. § 245C.15, subd. 4(b)(2) (2022). Further, Collins may request a set-aside of her disqualification by submitting a new background study under Minn. Stat. § 245C.22, subd. 4 (2022), and an employer may request a variance under Minn. Stat. § 245C.30 (2022) that would allow her to work under certain conditions.

We have recognized that "an individual's interest in working in a chosen profession is not absolute" and that being disqualified only from working in state-regulated facilities is a "less restricted" but "significant" interest. *Sweet*, 702 N.W.2d at 320. Here, Collins has been able to find employment outside her field and could pursue a set-aside or variance if she wishes to seek work in her chosen profession from which she is otherwise disqualified. Ultimately, Collins's employment in the field she has chosen and in which she is qualified to work is restricted. *See id.* (stating that "employment in an individual's chosen field is significant and weighs heavily in the individual's favor" when applying the *Mathews* balancing test). Therefore, we give this factor significant weight.

B. Second *Mathews* Factor: Risk of Erroneous Deprivation

Collins argues that the second *Mathews* factor weighs in her favor due to the fact-intensive nature of maltreatment decisions and the importance of credibility

determinations. *See Goldberg v. Kelly*, 397 U.S. 254, 269 (1970); *Fosselman*, 612 N.W.2d at 462-63. Collins claims that relying on hearsay statements from M.H., the only direct witness of the alleged act of maltreatment, leaves the risk of an erroneous outcome too high.

Collins asks us to apply the reasoning from *In re Expulsion of E.J.W.*, in which this court concluded that the risk of erroneous deprivation was "compelling" when the only direct-observation evidence of the incident resulting in the student's expulsion was introduced through the witnesses' prior statements to police officers. 632 N.W.2d 775, 781 (Minn. App. 2001). However, *E.J.W.* differs from this case in two important respects. First, in *E.J.W.*, the school district's failure to identify the witnesses prior to the hearing, in addition to not calling them to testify, was the basis for our holding that E.J.W.'s inability to confront those witnesses deprived him of his due-process rights. *Id.* at 781-82. Second, the witnesses' statements in *E.J.W.* contained inconsistencies, which established a need for cross-examination and credibility determinations. *Id.* at 781.

Here, unlike in *E.J.W.*, DHS subpoenaed M.H. to solicit her testimony at the fair hearing, and Collins had notice that DHS would introduce M.H.'s statements at the hearing. And, although Collins contends that M.H.'s statements contain "major inconsistencies" that the HSJ or Collins should have had the opportunity to question, the HSJ found, and the record shows, that M.H.'s statement to the DHS investigator was "largely consistent" with the one she gave to the facility's QI specialist.[3] We have no reason to doubt that

[3] What Collins characterizes as "inconsistencies" are, on our review of the record, merely questions about M.H.'s timing and reporting behavior and why she did not immediately

administrative-hearing officers such as the HSJ are capable of weighing hearsay evidence and making credibility assessments. Appellate courts have long held that "it is reasonable to assume that the commissioner is in a position to judge the inherent trustworthiness and reliability of the evidence" presented at the hearing. *State ex rel. Indep. Sch. Dist. No. 276 v. Dep't of Educ.*, 256 N.W.2d 619, 627 (Minn. 1977). Here, the HSJ stated that she would "see whether [the hearsay is] corroborated by actual testimony and give hearsay the weight it should be given, given that it's hearsay." In her order, the HSJ confirmed that the hearsay evidence was weighted accordingly. Thus, any risk of an erroneous outcome was mitigated.

Furthermore, we are not convinced that any additional or substitute procedural safeguards had probable value here. *See Mathews*, 424 U.S. at 332-33. Due process requires "timely and adequate notice detailing the reasons for a proposed [action], and an effective opportunity to defend by confronting any adverse witnesses and by presenting [the individual's] own arguments and evidence orally." *Goldberg*, 397 U.S. at 267-68. Even so, we have held that "[a]lthough *Goldberg* guarantees the right to confront and cross-examine witnesses, *Goldberg* does not mandate the [agency] to call witnesses only to enable" cross-examination. *Wilhite v. Scott Cnty. Hous. & Redev. Auth.*, 759 N.W.2d 252, 259 (Minn. App. 2009). The HSJ's order stated that Collins could have called M.H. as a witness herself. We agree and note that the fair-hearing statute permits a person

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connect the bruising on A.L. with the alleged pushing incident, which do not implicate the overall credibility of M.H.'s account of what she witnessed and are reasonably explained by her place in the reporting structure at REM Ramsey.

involved in a fair hearing to request, and the HSJ to grant, a continuance to reasonably accommodate the appearance of a witness. Minn. Stat. § 256.0451, subd. 7(a)(1) (2022).

Collins, however, asserts that her ability to call M.H. as a witness is irrelevant because M.H.'s appearance was necessary for the HSJ to make a credibility determination about her statements as introduced through the agency's investigation. Collins argues that because the burden of proof rests with the commissioner, DHS had to call M.H. as a witness to meet its evidentiary burden. *See E.J.W.*, 632 N.W.2d at 781 (concluding that the agency's failure to call the witnesses violated appellant's due-process rights by both depriving appellant of cross-examination opportunities and precluding a full review of the witnesses' credibility). We disagree because in a fair hearing, the commissioner is allowed to introduce reliable hearsay. *See* Minn Stat. § 256.0451, subd. 19.

Even without M.H.'s appearance at the fair hearing, Collins had both notice and an opportunity to be heard. Notably, when Collins presented her side of the story, the HSJ found that consistencies between Collins's own testimony and M.H.'s hearsay statements supported the HSJ's conclusion that it was more likely than not that the events occurred in the way M.H.'s statements described them. In sum, the potential risk of erroneous deprivation from admitting the hearsay evidence is small and does not weigh heavily in Collins's favor.

C. Third *Mathews* Factor: Governmental Interest and Administrative Burden

Collins argues that the third *Mathews* factor weighs in her favor, focusing on the minimal administrative burden on DHS had it been required to present M.H.'s statements

through direct testimony. Collins asserts that because DHS subpoenaed M.H. and listed her as a witness, it would not be burdensome to require the agency to produce her as a witness.

Collins fails to address the governmental interest, however, which is significant. Minn. Stat. § 245C.22, subd. 3 (2022), requires that the commissioner give "preeminent weight to the safety of [the persons] served" when reviewing a request for reconsideration of a disqualification. When considering the third *Mathews* factor in this context, we have determined "the governmental interest in protecting the public, especially vulnerable individuals," to be of "paramount importance." *Sweet*, 702 N.W.2d at 321. In *Sweet*, we also recognized the government's interest in conserving time and resources by reconsidering disqualifications efficiently. *Id.* Imposing broader requirements for admissible hearsay to be supplemented with testimonial evidence has the potential to delay evidentiary hearings or increase their duration unnecessarily because, as we already stated, HSJs are well equipped to weigh evidence and make credibility determinations. Therefore, this factor weighs heavily in favor of the commissioner.

Reviewing the three *Mathews* factors here shows that Collins's interest in her ability to work as a direct-care provider for children and vulnerable adults is substantial. However, there was minimal risk of erroneous deprivation of this interest notwithstanding the lack of direct testimony from M.H. The administrative burden on the agency to supplement admissible hearsay with live testimony, especially given the government's significant interest in protecting vulnerable individuals, weighs heavily in favor of the commissioner. Based on our application of the *Mathews* test, we conclude that the

procedural due process afforded to Collins was constitutionally sufficient, and therefore, the commissioner's decision did not violate the United States or Minnesota Constitutions. *See* Minn. Stat. § 14.69.

II. The commissioner's decision did not rely on inherently unreliable evidence and therefore was not arbitrary or capricious.

Under the MAPA scope of review, we may reverse an agency decision if it is "arbitrary or capricious." *Id.* An agency's decision is arbitrary and capricious if it

> (a) relied on factors not intended by the legislature; (b) entirely failed to consider an important aspect of the problem; (c) offered an explanation that runs counter to the evidence; or (d) the decision is so implausible that it could not be explained as a difference in view or the result of the agency's expertise.

Citizens Advocating Responsible Dev. v. Kandiyohi Cnty. Bd. of Comm'rs, 713 N.W.2d 817, 832 (Minn. 2006); *see also In re Appeal of Staley*, 730 N.W.2d 289, 295 (Minn. App. 2007). "A decision is considered arbitrary and capricious if the decision represents the agency's will, rather than its judgment." *Staley*, 730 N.W.2d at 295 (quotation omitted). An agency's conclusions are not arbitrary and capricious if the agency articulates a "rational connection between the facts found" and its decision. *In re Excess Surplus Status of Blue Cross & Blue Shield of Minn.*, 624 N.W.2d 264, 277 (Minn. 2001) (quotation omitted).

As previously discussed, fair hearings permit the admission and consideration of hearsay because "[a]ll evidence, except that privileged by law, commonly accepted by reasonable people in the conduct of their affairs as having probative value with respect to the issues shall be submitted at the hearing." Minn. Stat. § 256.045, subd. 4(b); *accord*

Minn. Stat. § 256.0451, subd. 19. Collins asserts that M.H.'s statements are "inherently unreliable evidence" that the commissioner should not have considered and that rendered the commissioner's decision arbitrary and capricious. Again, we disagree.

Collins cites no authority for the proposition that M.H.'s statements are inherently unreliable for purposes of reviewing an agency decision. Rather, Collins claims that M.H.'s failure to testify at the fair hearing "makes her prior statements patently unreliable, since it appears [M.H.] knowingly refused to corroborate them via live testimony." We are not persuaded, as our review of the record clearly shows that the HSJ was aware that M.H. was listed as a witness and subpoenaed, and the HSJ noted on the record that she would weigh the hearsay accordingly.

Collins again points us to what she describes as "inconsistencies" in M.H.'s hearsay statements, namely, M.H. reporting the alleged abuse one or two days after the incident occurred and after she observed the bruising on A.L. and M.H. indicating that she did not immediately connect the bruising with the incident. Notably, the MDH investigator's record from her interview with M.H. indicates that M.H., then a trainee, stated that she witnessed Collins, her supervisor, push A.L. down into a chair during a confrontation, and M.H. was uncomfortable with what she saw. Further, M.H. told the investigator that she observed the bruises on A.L. the next day and that when she told Collins about them, Collins appeared unconcerned. The next morning, M.H. told a different staff member who was covering for Collins's shift about what she had seen, and that staff member then assisted M.H. with reporting both the bruising and the chair incident to the QI specialist.

Though M.H. stated that she did not connect the bruise on A.L.'s buttocks with the chair incident until asked about it, she reported both the bruising and the incident.[4]

We are not persuaded by Collins's characterization of M.H.'s statements, and we conclude that the hearsay here falls within the realm of evidence commonly accepted by reasonable people as having probative value. *See* Minn. Stat. §§ 256.045, subd. 4(b), .0451, subd. 19. In considering this evidence, the commissioner did not rely on factors not intended by the legislature, offer an explanation that runs counter to the evidence, or make an implausible decision that cannot be explained as a difference in view or the result of the agency's expertise. Thus, the agency's decision was not arbitrary or capricious. *See Staley*, 730 N.W.2d at 295.

"Only where it appears that [the agency] clearly abused its discretion in relying upon inherently unreliable evidence, under the hearsay rule or otherwise, should the courts intervene." *Indep. Sch. Dist. No. 276*, 256 N.W.2d at 627. Given our deference to the agency's expertise and fact-finding, we will not disturb the commissioner's decision on this basis.

[4] Collins further claims that M.H.'s statements as to the presence of other witnesses were inconsistent, but the record shows that M.H. told the investigator that she, Collins, and A.L. were the only people present when Collins pushed A.L. into the chair and that the QI specialist's statement to the investigator that M.H. told her other individuals were in the area refers to the presence of other individuals at the time M.H. was making the report, not at the time of the incident.

III. Based on the entire record, substantial evidence supported the commissioner's decision.

For the commissioner's decision to be supported by substantial evidence under MAPA, it "must be supported by either (1) such relevant evidence as a reasonable mind might accept as adequate to support a conclusion; (2) more than a scintilla of evidence; (3) more than some evidence; (4) more than any evidence; or (5) the evidence considered in its entirety." *Minn. Ctr. for Env't Advoc. v. Minn. Pollution Control Agency*, 644 N.W.2d 457, 466 (Minn. 2002). The appellant bears the burden of establishing that the agency's findings are unsupported by the record evidence. *In re Rev. of 2005 Ann. Automatic Adjustment*, 768 N.W.2d 112, 118 (Minn. 2009).

Collins argues that the commissioner's decision is not supported by substantial evidence without the statements she argues should not have been admitted. Because M.H.'s statements are admissible evidence under Minn. Stat. § 256.045, subd. 4(b), and Minn. Stat. § 256.0451, subd. 19, we need not consider the question of whether other record evidence is sufficient to support the commissioner's decision in the absence of M.H.'s statements. Even so, we note that the commissioner's decision is supported by the evidence considered in its entirety.

Beyond M.H.'s hearsay statements, the HSJ considered photographs and medical reports of bruises on A.L.'s arms and buttocks, evidence that A.L. had no major mobility issues and was not prone to falls, and testimony that no one had reported any falls or other injuries that would have caused A.L.'s bruises. Further, the HSJ had evidence of the REM Ramsey program director informing the DHS investigator that Collins "doesn't handle

stress real well," "gets irritated fast," and gets into "power struggles" with residents. The HSJ also heard Collins's testimony about the confrontation she had with A.L. on January 4, 2020, which was consistent with parts of M.H.'s account and inconsistent with some of Collins's own prior statements about whether physical contact was an element of that confrontation.[5]

We agree that on its own, with nothing to connect the evidence of A.L.'s bruises to an action by Collins, this evidence would not be substantial enough to support a maltreatment determination. But when combined with M.H.'s statements in the investigation and incident reports, there is ample relevant evidence that a reasonable mind might accept to support the conclusion that Collins pushed A.L. into a chair, causing bruises. *See Minn. Ctr. for Env't Advoc.*, 644 N.W.2d at 466.

To determine if the commissioner's decision is supported by substantial evidence, appellate courts examine "whether the agency has adequately explained how it derived its conclusion and whether that conclusion is reasonable on the basis of the record." *RS Eden/Eden House*, 928 N.W.2d at 333 (quotation omitted). Here, the commissioner found that Collins "does not deny she directed [A.L.] to sit in a dining room chair" and "admitted

[5] In an effort to persuade us that her lack-of-substantial-evidence argument has merit, Collins asserts that there is a lack of evidence confirming when or how A.L. sustained the bruises and that other evidence shows that A.L. has sustained bruises before, engages in self-injurious behavior, and takes many medications. Our review of the record reveals that the evidence of A.L.'s self-injurious behavior showed that she picked at the skin on her hands or would sometimes hit her chest when frustrated or anxious—not the type of behavior that would result in large bruises on her backside. Additionally, the DHS investigator testified to searching online for any bruising side effects related to A.L.'s listed medications and finding that "a couple" of the medications can cause bruising, but that such a side effect would be unusual.

to having physical contact with [A.L.]"; that Collins's version of events "tracks in all major ways with what [M.H.] reported but is a sanitized version"; that a doctor verified bruising on A.L.; that photographs showed a "large, purple and discolored" bruise on one of A.L.'s buttocks; and that there is no other documentation of injuries to A.L. We conclude that the explanation of the commissioner's decision is adequate and reasonable based on the record. *See id.*

Finally, Collins argues that even if the hearsay statements are admissible, the commissioner improperly relied on the statements as the sole basis for her decision.[6] Stated another way, Collins's complaint is that the hearsay evidence was *necessary* to the commissioner's finding of maltreatment, which is different than claiming the commissioner solely relied on it. We do not find this argument meritorious because, as we previously articulated, the HSJ properly relied on evidence in addition to the hearsay to which Collins objected.

We conclude that the commissioner's decision relied on such relevant evidence as a reasonable mind might accept as adequate to support its conclusion and that the commissioner adequately explained how it derived its conclusion, which was reasonable based on the record. *See id.*; *Minn. Ctr. for Env't Advoc.*, 644 N.W.2d at 466. Therefore,

[6] Collins bases this argument on the general rule governing the use of hearsay in administrative proceedings that "in the absence of a special statute," an administrative agency cannot rest its findings of fact solely on objected-to hearsay. *Indep. Sch. Dist. No. 276*, 256 N.W.2d at 627 (quotation omitted). Collins asserts that the fair-hearing statute is not a "special statute" as contemplated by the rule, and thus the commissioner cannot rely solely on M.H.'s hearsay statements for its findings. Because the commissioner did not rely solely on objected-to hearsay for its factual findings, we need not address this argument.

we have no basis for reversal on the grounds that the commissioner's decision was unsupported by substantial evidence. *See* Minn. Stat. § 14.69.

Affirmed.