

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0126**

In re the Matter of:

Western Prairie Human Services,
Respondent,

Commissioner of Minnesota Department of Human Services,
Respondent,

vs.

County of Benton,
Appellant.

**Filed August 12, 2024
Affirmed
Larson, Judge**

Pope County District Court
File No. 61-CV-23-88

Justin Anderson, Anderson Law Office, PA, Elbow Lake, Minnesota (for respondent
Wester Prairie Human Services)

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Minnesota (for respondent Commissioner of Minnesota Department of Human Services)

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Attorney, Foley, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Larson, Judge; and
Klaphake, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

LARSON, Judge

This appeal stems from a dispute over whether Benton County or Pope County is financially responsible for the cost of foster-care services for the minor children of A.C. (mother). The dispositive question is which county mother resided in on November 3, 2022, the date her children were placed in foster care. Because we conclude the district court correctly determined that mother lived in Benton County on that date, we affirm.

FACTS

In September 2022, appellant Benton County Human Services (BCHS) received a prenatal-exposure report after mother tested positive for THC during prenatal care. In response to the report, BCHS opened chemical-dependency and Parent Support Outreach Program (PSOP) assessment files. BCHS personnel met with mother on October 3, 2022, at a Salvation Army in Benton County. During the interview, mother indicated that she lived at the Salvation Army with her five children. When offered PSOP resources, mother responded that she planned to move to Glenwood, in Pope County, on October 5, 2022, to get a fresh start, and requested a PSOP referral to Pope County. BCHS personnel informed mother that there would be adverse child-protection consequences if she tested positive for controlled substances when she gave birth.

On October 5, 2022, mother signed a year-long lease for an apartment in Pope County. The lease listed mother and her five children as occupants. Monthly rent for the apartment was \$550, while mother's monthly income totaled \$835. Even though she did

not have a driver's license and relied on others for transportation, mother continued to receive pregnancy-related medical care in St. Cloud.

On October 17, 2022, BCHS received a second prenatal-exposure report. The reporter stated that mother was homeless, and that mother's five children were residing with mother's friend M.C. (caretaker) in Benton County. During a phone call with BCHS that same day, mother reported moving to Pope County on October 5, 2022, and stated that she planned to move her children to Pope County later that day. BCHS subsequently referred the report to respondent Western Prairie Human Services (WPHS),¹ which opened PSOP and child-protection files for mother.

WPHS attempted to contact mother at the Pope County apartment on October 20, 2022. Mother did not answer the door, and two children unrelated to mother told the WPHS worker that mother was not home because she "was stuck in St. Cloud."²

The next day, WPHS visited caretaker's home to speak with caretaker and the children. During the visit, caretaker indicated that the children had not seen mother "for nearly two weeks." Two of mother's children stated that they were supposed to move to Pope County, but mother had not picked them up for the move. The two children also told WPHS personnel that they had cats at the Pope County apartment.

¹ WPHS is a Joint Powers Entity that provides social services to both Grant County and Pope County and represents Pope County in this appeal. *See* Minn. Stat. § 471.59 (2022).

² The city of St. Cloud is located in three different counties: Stearns County, Benton County, and Sherburne County. Wherever possible, this opinion refers to the specific county in which an event occurred.

WPHS contacted mother via telephone on October 24, 2022, and asked when mother planned to return to Pope County. Mother said she would return “as soon as she had a ride,” and hoped to return to Pope County “by the end of the month.” Mother also said she planned to enroll the children in the Minnewaska school district when she returned to Pope County.

On November 2, 2022, WPHS located mother in the Sherburne County Jail after she was arrested for smoking Percocet in a gas-station bathroom. That same day, BCHS received a report that mother had given birth to her sixth child. Mother disclosed that she slept in Benton County the night before the birth. At the hospital, mother tested positive for cocaine and fentanyl, resulting in Benton County placing a child-protection hold on the newborn.

The following day, November 3, 2022, all six of mother’s children were placed on a police officer’s hold for foster care. BCHS interviewed mother’s children that day, and one of the children reported living in Pope County for a short time. The same child also said she knew mother was staying at a friend’s apartment near Highway 10, apparently referring to an apartment in Benton County. In later interactions, the children indicated that their personal belongings, and clothing in particular, were in Pope County.

BCHS met with mother on November 8, 2022. Mother reported that she had no place to live and was homeless. Later that month, BCHS contacted mother’s landlord in Pope County and learned that, although mother paid rent for October, mother had not paid November’s rent, and the landlord had not heard from mother “for an extended period of time.” BCHS met with mother again on November 23, 2022, and helped her negotiate an

early moveout from the Pope County apartment to avoid eviction. During the meeting, mother told BCHS that the move to Pope County was an attempt at “drying out,” but she had been unsuccessful at getting sober. After the meeting, BCHS returned mother to an apartment complex on the east side of St. Cloud, where she intended to stay with a relative.

On December 9, 2022, BCHS sent WPHS a letter requesting that Pope County assume financial responsibility for the foster-care services for mother’s children. WPHS, on behalf of Pope County, denied financial responsibility in a letter dated December 16, 2022. BCHS then submitted a request for resolution of the financial-responsibility dispute to the Minnesota Department of Human Services (DHS) on January 3, 2023. In both its letter to WPHS and its request to DHS, BCHS reported that mother had “been homeless and either sleeping ‘on the streets’ or staying with friends temporarily” since November 3, 2022.

On February 14, 2023, a human-services judge (HSJ) issued a recommended order determining Pope County was financially responsible for the children’s foster care. The HSJ determined that the last time the children lived with mother, prior to the date the children became eligible for foster-care services, was at the apartment in Pope County. Based on this determination, the HSJ concluded that Pope County was financially responsible for the foster-care services of mother’s children. A co-chief HSJ adopted the recommended order as DHS’s final decision on February 16, 2023. WPHS appealed DHS’s decision to the district court on March 13, 2023. The district court reversed DHS, determining that Benton County was financially responsible for the children’s foster-care costs.

BCHS appeals.

DECISION

BCHS challenges the district court’s decision to reverse DHS’s decision and conclude that BCHS is the financially responsible county for the children’s foster care. “In reviewing decisions of administrative agencies, [we are] not bound by the district court’s decision. [We] may conduct an independent examination of the administrative agency’s record and decision and arrive at [our] own conclusions as to the propriety of that determination.” *Signal Delivery Serv., Inc. v. Brynwood Transfer Co.*, 288 N.W.2d 707, 710 (Minn. 1980).

We apply the Minnesota Unitary Residence and Financial Responsibility Act (the Act), Minn. Stat. §§ 256G.01-.12 (2022 & Supp. 2023)³ to determine the county of financial responsibility for foster-care services. *See In re Fin. Resp. of Foster Care Servs. Provided to T.W.*, 627 N.W.2d 102, 104 (Minn. App. 2001). “Interpreting the act is a question of law, which [we] review[] de novo.” *Id.*

Under the Act, as relevant here, the “[c]ounty of financial responsibility” is “the county in which the applicant resides at the time of application.” Minn. Stat. § 256G.02, subd. 4(b). To determine “financial responsibility, residence must be determined as of the date . . . of eligibility.” Minn. Stat. § 256G.04, subd. 1. A minor child’s residence is determined by “derivative settlement,” meaning “[t]he residence of the parent . . . with

³ The legislature substantially amended chapter 256G during the 2024 legislative session. *See* 2024 Minn. Laws ch. 79, art. 3, §§ 8-17. Because these statutory changes did not take effect until August 1, 2024, *see* Minn. Stat. § 645.02 (2022), we do not address them here.

whom that child last lived Physical or legal custody has no bearing on residence determinations.” Minn. Stat. § 256G.10. We have not set forth the standard to apply when identifying the county of financial responsibility for foster-care services. But in the context of social services, we have stated that the county of financial responsibility “depends on the circumstances of the case.” *See T.W.*, 627 N.W.2d at 104.

BCHS argues that DHS correctly interpreted and applied the Act to the facts in this case, leading DHS to its conclusion that Pope County is financially responsible for the children’s foster-care services. We disagree.

It is undisputed that the parent with whom the children last resided was mother. Thus, to determine the county of financial responsibility, DHS needed to determine where mother resided on November 3, 2022, when mother’s children entered foster care. *See* Minn. Stat. §§ 256G.04, subd. 1, 256G.10. However, DHS erroneously based its decision on where mother and children last resided together, rather than on where mother resided on November 3, 2022. And, as explained below, mother resided in Benton County on November 3, 2022.

The record demonstrates that, on October 17, 2022, BCHS received a prenatal exposure report stating that mother was “homeless.” A few days later, WPHS attempted to locate mother in Pope County and learned that mother “was stuck in St. Cloud.” Around this same time, WPHS spoke with mother’s children, and two of the children indicated that mother had apparently abandoned plans to move the children to Pope County. During a subsequent interaction, one child told a BCHS employee that mother had been staying at a friend’s apartment in Benton County. And when mother gave birth to her sixth child in

St. Cloud, she reported sleeping in an apartment in Benton County the previous night. Thus, the record indicates that, by October 17, 2022, mother had returned to Benton County, and there is no indication that mother returned to Pope County before November 3, 2022.

The record further illustrates that on and after November 3, 2022, mother did not return to Pope County. On the day the children were placed in foster care, mother was receiving medical care at a hospital in St. Cloud after giving birth. In subsequent discussions between mother and BCHS, mother reported that she was homeless after leaving the hospital. In late November, a BCHS employee drove mother to an apartment complex on the east side of St. Cloud where mother indicated an intent to stay with a relative. And BCHS admitted in its letter to WPHS and its dispute-resolution request to DHS, that mother had “been homeless and either sleeping ‘on the streets’ or staying with friends temporarily” since November 3, 2022. Given these facts, we conclude that, under the circumstances of this case, Benton County is the county of financial responsibility because mother resided in Benton County on the day the children entered foster care.

BCHS disagrees, arguing mother’s year-long lease for the apartment in Pope County dispositively shows that mother resided in Pope County. We are not persuaded. While it is true that mother leased an apartment in Pope County, the record does not indicate that mother intended to maintain the lease. Other than October, the first month of the lease, mother never paid rent for the apartment, nor did she contact her landlord about her failure to pay rent. The record also indicates that mother did not have the financial means to pay her rent, given that her monthly rent obligation was more than 60% of her purported

monthly income. When contacted in mid-November, mother's landlord indicated that she had been unable to contact mother "for an extended period of time." And in late November, BCHS helped mother negotiate an early moveout to avoid eviction. Under these facts, mother's lease in Pope County, without other evidence that she, in fact, was living at the apartment, does not show that she resided in Pope County on November 3, 2022.

Considering the particular circumstances of this case, we conclude that the county of financial responsibility for children's foster-care services is Benton County because mother resided in Benton County on November 3, 2022. We, therefore, affirm the district court's decision to reverse DHS.

Affirmed.