This opinion is nonprecedential except as provided by Minn.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
A24-1828

In re the Matter of:

Ryan Swenson,
Appellant,

vs.

Commissioner of Douglas County Human Services,
Respondent,

Minnesota Dept of Human Services,
Respondent.

Filed July 7, 2025
Affirmed
Bond, Judge

Douglas County District Court
File No. 21-CV-24-490

Ryan R. Swenson, Moose Lake, Minnesota (self-represented appellant)

Chad M. Larson, Douglas County Attorney, Christopher D. Mathews, Assistant County Attorney, Alexandria, Minnesota (for respondent Douglas County Human Services)

Keith Ellison, Attorney General, R.J. Detrick, Assistant Attorney General, St. Paul, Minnesota (for respondent Minnesota Department of Human Services)

Considered and decided by Slieter, Presiding Judge; Ede, Judge; and Bond, Judge.

NONPRECEDENTIAL OPINION

BOND, Judge

Appellant Ryan Swenson challenges a district court order affirming a decision by respondents Douglas County Social Services[1] (the county) and the Minnesota Department of Human Services (DHS) disqualifying him from participation in Minnesota's General Assistance program for two years. Swenson argues that DHS's decision was not supported by substantial evidence and was arbitrary and capricious. We affirm.

FACTS

Swenson is a resident of the Minnesota Sex Offender Program (MSOP) facility in Moose Lake. Since his arrival at the facility in 2011, Swenson has intermittently received General Assistance benefits. Swenson had previously been disqualified from the General Assistance program from August 2020 to August 2021 for an intentional program violation.

Swenson reapplied for General Assistance in October 2022. In the application, Swenson reported that he had no employment income but occasionally received "unearned income" in the form of gifts at holidays. Swenson signed the application form, verifying that he understood the "Penalty warnings and qualification questions" section and that a county worker had explained the attached "Client Responsibilities and Rights" document.

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[1] The title of this opinion identifies one respondent as the "Commissioner of Douglas County Human Services." The correct name of that respondent is Douglas County Social Services, which is led by a director, not a commissioner. We refer to Douglas County Social Services as "the county" in this opinion. All references in this opinion to "the commissioner" or "the commissioner of human services" refer to the Minnesota Commissioner of Human Services.

The “Client Responsibilities and Rights” document required Swenson to report changes that may affect benefits, including changes in income, and cautioned that failing to provide pertinent information could result in termination of benefits. Swenson began receiving General Assistance benefits again in October 2022.

In August 2023, Swenson completed a “Household Update Form,” which the county used to determine whether Swenson would be recertified to receive General Assistance benefits. The form required applicants to describe any changes in income since their last application and answer 13 questions. Swenson answered only two of the 13 questions, and did not respond to any questions regarding household income and expenses. Swenson included a bank statement with the form, which detailed transactions from July through August 2023. The bank statement showed several deposits to Swenson’s bank account that he had not previously reported as income. The county referred Swenson’s case to a county fraud investigator.

After reviewing the bank statement Swenson included with the Household Update Form, the county fraud investigator contacted MSOP to obtain a copy of Swenson’s MSOP account statement. Swenson’s MSOP statement, which listed all 2023 deposits into his MSOP account, showed three deposits of unearned income in March, June, and July 2023 that had not been reported to the county.

Swenson submitted an updated form in early October 2023. In the updated form, Swenson indicated “yes” in response to a question asking whether anyone in the household had a job or income, but he did not provide any explanation. In answer to a question regarding any income from sources other than work, Swenson marked “no.” After additional investigation, the county fraud investigator notified Swenson that an audit of his General Assistance eligibility revealed unreported unearned income and the county proposed to disqualify Swenson from the General Assistance program for a period of two years.

At the subsequent administrative disqualification hearing before a human-services judge (HSJ), Swenson testified that the unreported unearned income was from money orders he had received as gifts. Swenson denied intentionally withholding information and testified that he did not understand that money orders needed to be reported as unearned income. Later in his testimony, Swenson stated that he disclosed the money orders to facility staff and he believed they reported it to the county on his behalf.

In a written order, the HSJ determined that there was clear and convincing evidence that Swenson committed an intentional program violation. The HSJ found that Swenson failed to report the unearned income he received through at least July 2023 and, in so doing, he willfully made false or misleading statements, or misrepresented, concealed, or withheld facts about his unearned income. The HSJ discredited Swenson's explanations as to why he failed to report this income, finding Swenson's testimony contradictory and unpersuasive. The HSJ found that Swenson had significant experience with the General Assistance program and, having been previously disqualified for an intentional program violation, was sufficiently on notice about the requirements for reporting unearned income. The HSJ recommended granting the county's request to disqualify Swenson from receiving General Assistance benefits for two years. On behalf of the commissioner of human services, the co-chief HSJ adopted the HSJ's findings of fact, conclusions of law, and recommended order as the final decision of DHS.

Swenson appealed to the district court for judicial review of DHS's final decision. The district court denied Swenson's appeal and affirmed DHS's order.[2]

Swenson appeals.

DECISION

Minnesota's General Assistance program provides financial support to "persons unable to provide themselves with a reasonable subsistence compatible with decency and health," and who are not otherwise provided for under state or federal law. Minn. Stat. § 256D.02, subd. 4 (2024). A person who attempts to obtain "assistance to which the person is not entitled" or "assistance greater than that to which the person is reasonably entitled" through a "willfully false statement or representation" or through the "intentional withholding or concealment of a material fact" may be penalized under Minn. Stat. § 256.98 (2024). Minn. Stat. § 256D.14 (2024). A person found to have wrongfully obtained assistance by an administrative-hearing determination must be disqualified from receiving General Assistance benefits. Minn. Stat. § 256.98, subd. 8(a). First-time

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[2] DHS also found that Swenson intentionally violated the General Assistance program by failing to report changes in employment income. Swenson had been receiving employment income through MSOP's vocational work program as of April 2023 and failed to report this income. However, effective August 1, 2021, the legislature amended the definition of "earned income" for purposes of the General Assistance program to exclude income from "rehabilitation programs." 2021 Minn. Laws, 1st Spec. Session, ch. 7, art. 7, § 19, at 175. DHS subsequently changed its policy to exclude this income from consideration beginning December 1, 2023. The district court affirmed DHS's order based solely on Swenson's failure to report unearned income, without considering DHS's finding that Swenson failed to report employment income. We do the same.

offenders are disqualified for one year, second-time offenders are disqualified for two years, and third-time offenders are permanently disqualified. *Id.*, subd. 8(a)(1)-(3).

A party aggrieved by an order of DHS disqualifying the party from receiving General Assistance benefits may appeal that order to the district court. Minn. Stat. § 256.045, subd. 7 (2024). On appeal to this court from a district court's order affirming an administrative-agency decision, we independently review the agency's decision. *In re Gillette Children's Specialty Healthcare*, 883 N.W.2d 778, 784-85 (Minn. 2016). In so doing, we will not "retry the facts or make credibility determinations." *Senior v. City of Edina*, 547 N.W.2d 411, 416 (Minn. App. 1996). Administrative agency decisions enjoy a "presumption of correctness" and the party challenging the agency decision has the burden of proving that the decision was reached improperly. *In re Minn. Power's Petition for Approval of EnergyForward Res. Package*, 958 N.W.2d 339, 343-44 (Minn. 2021).

When judicial review is authorized by Minn. Stat. § 256.045 (2024), the Minnesota Administrative Procedure Act, Minn. Stat. §§ 14.63-.69 (2024), governs the scope of review. *Zahler v. Minn. Dep't of Hum. Servs.*, 624 N.W.2d 297, 301 (Minn. App. 2001), *rev. denied* (Minn. June 19, 2001). We may reverse or modify an administrative agency decision if, among other reasons, the substantial rights of the petitioner may have been prejudiced because the decision was "unsupported by substantial evidence in view of the entire record as submitted," or if the decision was "arbitrary or capricious." Minn. Stat. § 14.69.

I. DHS's decision is supported by substantial evidence.

Swenson first argues that DHS's decision to disqualify him from receiving General Assistance benefits should be reversed because it was not supported by substantial evidence. "[S]ubstantial evidence is relevant evidence that a reasonable mind might accept as adequate to support a conclusion, and more than a scintilla, some, or any evidence." *In re NorthMet Project Permit to Mine Application*, 959 N.W.2d 731, 749 (Minn. 2021) (quotations omitted). To determine whether an agency decision is supported by substantial evidence, we must "determine whether the agency has adequately explained how it derived its conclusion and whether that conclusion is reasonable on the basis of the record." *Id.* (quotation omitted).

To prove an intentional program violation, there must be clear and convincing evidence that the recipient both committed a violation and did so intentionally. *See* Minn. Stat. § 256.046, subd. 1 (2024) (providing that administrative fraud hearings are subject to the requirements of 7 C.F.R. § 273.16(e)(6)). The General Assistance program requires that recipients report all countable income and report any changes in income within ten days of the change. Minn. Stat. § 256D.06, subd. 1 (2022) (providing that General Assistance benefits are subject to Minn. Stat. § 256P.06, subd. 3 (2022),[3] which states that unearned income—nonrecurring income over $60 per quarter—is considered when determining General Assistance eligibility); Minn. Stat. § 256D.405, subd. 3 (2024).

[3] The legislature amended this section in 2023 to delete "nonrecurring over $60 per quarter" as an example of unearned income. 2023 Minn. Laws ch. 70, art. 10, § 79, at 383. That amendment, which took effect on July 1, 2024, does not apply in this case because Swenson filed his application for General Assistance benefits in 2023. *Id.*

Swenson does not appear to dispute that he failed to report unearned income. Instead, Swenson asserts, as he did at the administrative disqualification hearing, that his failure to report the unearned income was not done intentionally and was thus not an intentional program violation.

The record supports DHS's determination that Swenson failed to report three deposits of unearned income reflected on his August 2023 and October 2023 Household Update Forms. The forms instructed Swenson to answer questions regarding income and money received "from sources other than work." In his August 2023 form, Swenson did not disclose that he received any unearned income and failed to answer 11 of the 13 questions on the form. In his October 2023 form, Swenson replied "no" to the question about whether anyone in his household received income from sources other than work. But Swenson's MSOP account statement showed three deposits of unearned income in March, June, and July 2023.

In addition, the record reflects that Swenson had been a General Assistance recipient on and off since his arrival at MSOP in 2011. Swenson had previously been barred from General Assistance for one year because he was found to have intentionally violated the program requirements. In his October 2022 General Assistance application, Swenson reported that he occasionally received "other unearned income" such as gifts, and acknowledged that he was required to report changes to income that may affect benefits. These facts support DHS's determination that Swenson was familiar with the General Assistance program and was aware of the reporting requirements.

Finally, at the administrative disqualification hearing, Swenson offered different explanations for his actions. Swenson first asserted that he was unaware that he needed to report the unearned income. Later in his testimony, he claimed that he disclosed the unearned income deposits to MSOP staff and that he believed they reported it on his behalf. DHS found Swenson's explanations not credible, and we defer to the agency's credibility determinations. *In re Appeal of Staley*, 730 N.W.2d 289, 294 (Minn. App. 2007).

We therefore conclude that DHS adequately explained its determination and that substantial evidence supports its decision that Swenson committed an intentional program violation by failing to report unearned income.

II. DHS's decision was not arbitrary or capricious.

Swenson also argues that DHS's decision was arbitrary and capricious. "An agency decision is arbitrary and capricious if it is an exercise of the agency's will, rather than its judgment, or if the decision is based on whim or is devoid of articulated reasons." *CUP Foods, Inc. v. City of Minneapolis*, 633 N.W.2d 557, 565 (Minn. App. 2001), *rev. denied* (Minn. Nov. 13, 2001). Swenson asserts that DHS's decision was arbitrary and capricious because his attestation that he lacked additional information created a "presumption of cooperation" that the agency had to overcome. As support for this proposition, Swenson cites an inapposite and unpersuasive Ninth Circuit case involving child paternity.[4]

[4] Swenson cites to a Ninth Circuit case involving a Hawai'i state program that provided aid to needy families with children. *Tomas v. Rubin*, 926 F.2d 906, 908-09 (9th Cir. 1991). That program was in turn regulated by federal statute that provided that a condition of eligibility was cooperating with the state to establish paternity. *Id.* The Ninth Circuit relied on federal regulation for a definition of "cooperation," which provided that attesting to a lack of information could constitute cooperation. *Id.* at 909.

Swenson's argument lacks factual or legal support. We conclude that the record does not support Swenson's claim that DHS used its will rather than its judgment in determining that Swenson committed an intentional program violation when he failed to disclose unearned income.

In sum, based on our independent review of the record, we conclude that DHS's determination that Swenson committed an intentional program violation by failing to report unearned income is supported by substantial evidence and neither arbitrary nor capricious.

Affirmed.