

FILED

2015 AUG 14 AM 8:57

TERRI A. BOZEMAN, CLERK  
COMMON PLEAS COURT  
GREENE COUNTY, OHIO

IN THE COMMON PLEAS COURT OF GREENE COUNTY, OHIO  
GENERAL DIVISION (CIVIL)

PAULINE HALL,

CASE NO. 2015 CV 0021

Plaintiff,

JUDGE STEPHEN A. WOLAVER  
MAGISTRATE RAYMOND J. DUNDES

v.

THE OHIO DEPARTMENT OF JOB &  
FAMILY SERVICES,

JUDGMENT ENTRY AND ORDER  
OF ADOPTION

Defendant.

**FINAL APPEALABLE  
ORDER**

This matter is before the Court on the Magistrate's Decision filed on July 28, 2015. More than fourteen days have elapsed since the filing of the July 28, 2015, Magistrate's Decision and no objections have been filed.

The Court has reviewed the facts independent of the findings by the Magistrate, has reviewed the Court's file, and the evidence as reported by the Magistrate. The Court is of the opinion that the Magistrate properly determined the factual issues and correctly applied the law.

The Court finds that there is no error of law or other defect on the face of the Magistrate's Decision. Therefore, the Magistrate's Decision, attached hereto, is hereby adopted and approved and is the Order of the Court.

IT IS SO ORDERED.

  
JUDGE STEPHEN A. WOLAVER 8/13/15

15-08-1895

CERTIFICATE OF SERVICE: A copy hereof was served upon:

AMY A. JEFFRIES, ESQ., via facsimile (866) 500-2804  
PAULINE HALL, 2323 North Knoll Drive, Beavercreek, OH 45431  
by fax and/or mail the date of filing.

  
Assignment Commissioner

SW

FILED

2015 JUL 28 AM 10:14

IN THE COMMON PLEAS COURT OF GREENE COUNTY, OHIO  
GENERAL DIVISION (CIVIL)

TERESA J. GIBSON, CLERK  
COMMON PLEAS COURT  
GREENE COUNTY, OHIO

PAULINE HALL,

CASE NO. 2015CV00021

Appellant,

Judge Stephen A. Wolaver  
Magistrate Raymond J. Dundes

-vs-

OHIO DEPARTMENT OF JOB &  
FAMILY SERVICES,

Magistrate's Decision

Appellee.

This matter comes before the Court on an administrative appeal filed by Pauline Hall. Ms. Hall appeals the decision by the Ohio Department of Job and Family Services Bureau which affirmed the state hearing decision determining that Ms. Hall's patient liability for nursing home care was properly increased from \$1,590 to \$2,216.

The administrative appeal in this case has been filed pursuant to R.C. 119.12 and R.C. 5101.35(E). Upon appeal, R.C. 119.12 provides in part:

*The court may affirm the order of the agency complained of in the appeal if it finds, upon consideration of the entire record and any additional evidence the court has admitted, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of this finding, it may reverse, vacate, or modify the order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law.*

When a common pleas court reviews the agency's order, it performs a hybrid function: it makes a determination of the law and considers the evidence revealed at the administrative level. *Univ. of Cincinnati v. Conrad* (1980), 63 Ohio St. 2d 108. Even in the face of disputed evidence, as long as an agency's decision is supported by reliable, probative, and substantial evidence and is in accordance with law, a common pleas court may not substitute its own judgment for that of the agency. *T. Marzetti Co. v. Doyle* (1987), 37 Ohio App.3d 25. The Supreme Court has interpreted *Conrad* to mean: *[A]n agency's findings of fact are presumed to be correct and must be deferred to by a reviewing court unless that court determines that the agency's findings are internally inconsistent, impeached by evidence of a prior inconsistent statement, rest upon improper inferences, or are otherwise unsupported. See Ohio Historical Soc. v. State Emp. Relations Bd.* (1993), 66 Ohio St.3d 466; *see also GMC v. Joe O'Brien Chevrolet* (1997), 118 Ohio App. 3d 470, wherein the court held that when no additional evidence is taken the court need only examine the record and determine whether the decision is supported by reliable, probative, and substantial

15-08-1896

evidence and is in accordance with law. It is not necessary to make separate findings of fact and conclusions of law.

It is undisputed in this matter that Ms. Hall entered into a land contract with her son wherein he as the buyer would be responsible for the mortgage on the property. Ms. Hall maintains that because the payments from her son go directly from her son to the financial institution she essentially receives no income from the land contract. The Ohio Department of Job and Family Services considers the land contract *income* because Ms. Hall could ultimately recover the property upon default of the land contract. The existence of the land contract has caused Ms. Hall's patient liability to increase.

The state hearing officer in this case determined that the land contract Ms. Hall had with her son was considered a *resource* for purposes of patient liability because she was still responsible for the mortgage. *See* Ohio Adm. Code Section 5160 et seq. That decision was appealed by Ms. Hall and subsequently affirmed by the Ohio Department of Job and Family Services Bureau of State Hearings, Administrative Appeal Section.

This Court has reviewed the record in this case. Because Ms. Hall is ultimately responsible for the mortgage on the land contract she has with her son, it is properly considered a resource for calculation of patient liability under Medicaid. The Court also finds that the decision by the Administrative Appeal Officer to affirm the decision by the state hearing officer is supported by probative reliable and substantial evidence.

Therefore, the decision by the Administrative Hearing Officer is AFFIRMED.

SO ORDERED:

  
Magistrate Raymond J. Dundes

**Parties and Counsel are referred to Civ.R. 53 regarding the filing of objections to the Magistrate's Decision. A party may not assign as error on appeal the Court's adoption of any factual finding or legal conclusion of a Magistrate, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R.53(D) (a)(ii), unless that party has objected to that finding or conclusion as required by Civ.R. 53(D)(3)(b).**

SERVICE OF COPY: A copy hereof was served upon:  
Amy A. Jeffries, Esq., via facsimile (866) 500-2804  
Pauline Hall, 2323 North Knoll Drive, Beavercreek, Ohio 45431

by ordinary mail and/or fax this date of filing.

  
Assignment Commissioner

15-08-1897