MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Southwood Healthcare Center, as Authorized Representative of Samuel Hill,

Appellant-Petitioner,

v.

Indiana Family and Social Services Administration,

Appellee-Respondent,

March 11, 2022

Court of Appeals Case No. 21A-MI-1778

Appeal from the Vigo Superior Court 2

The Honorable Lakshmi Reddy, Judge

Trial Court Cause No. 84D02-2009-MI-5063

Robb, Judge.

Case Summary and Issue

[1] Samuel Hill, by his authorized representative, Southwood Healthcare Center ("Southwood"), requested a category change for his medical benefits from Medicare to Medicaid. The Indiana Family and Social Services Administration ("IFSSA") denied Hill's request upon finding him ineligible for Medicaid benefits due to the value of his assets and Hill appealed. The Administrative Law Judge ("ALJ") held a hearing and subsequently issued an order affirming IFSSA's denial of Medicaid benefits. Hill filed a request for agency review and IFSSA issued a final agency action affirming the ALJ's decision.

[2] Hill then filed a petition for judicial review of IFSSA's final agency action which was denied by the trial court. Hill now appeals, raising one issue for our review, which we restate as whether the trial court erred by denying Hill's petition for judicial review. Concluding the trial court did not err by denying Hill's petition, we affirm.

Facts and Procedural History

[3] On August 16, 2019, Hill was admitted into Southwood. On December 7, 2019, Hill was declared by a physician to be "incapacitated by senile degeneration of the brain."[1] Appellant's Appendix, Volume II at 103.

[1] According to the physician's report, Hill had been incapacitated for greater than a year. *See* Appellant's Appendix, Volume II at 109-10.

[4] On February 18, 2020, Southwood as Hill's representative requested a category change in Hill's medical benefits from "Medicare Savings Program known as QI-Qualified Individual or Category MA I to full coverage Medicaid for the Aged (MA A)." *Id.* at 201. Due to the severity of Hill's condition, a petition was filed seeking the appointment of a legal guardian over his person and estate. On April 1, 2020, Amanda Brookins of Compassionate Care Guardian Services, LLC, was appointed as Hill's guardian.

[5] On April 22, 2020, IFSSA denied Hill's application finding that the value of his resources exceeded the program eligibility standard. *See id.* at 60. IFSSA determined that Hill had $11,367.71 in liquid assets which exceeded the $2,000 maximum.

[6] Hill filed an appeal with the IFSSA Office of Hearings and Appeals. On June 4, 2020, a hearing was held regarding Hill's eligibility. Subsequently, the ALJ issued an order sustaining IFSSA's denial of benefits to Hill. Hill then filed a Request for Agency Review. On September 2, 2020, IFSSA issued its Notice of Final Agency Action affirming the ALJ's determination.

[7] Having exhausted his administrative remedies, Hill filed a petition for judicial review arguing that because of his incapacitation he did not have actual access to the bank account that contained $11,367.71 and therefore, his resources did not exceed the Medicaid eligibility maximum. The trial court concluded that "Hill did not have the actual ability to access his bank account, but his legal right to the account never wavered. [Therefore,] the account was an available

resource to be properly considered" and denied Hill's petition. Appealed Order at 2-3. Hill now appeals.

Discussion and Decision

I. Standard of Review

[8] In an appeal involving an administrative agency's decision we are bound by the same standard of review as the trial court. *Walker v. State Bd. of Dentistry*, 5 N.E.3d 445, 448 (Ind. Ct. App. 2014), *trans. denied*. "We do not try the case de novo and do not substitute our judgment for that of the agency." *Id.* We will reverse an administrative decision only if it is:

> (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (2) contrary to a constitutional right, power, privilege, or immunity; (3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; (4) without observance of procedure required by law; or (5) unsupported by substantial evidence.

Id. (citing Ind. Code § 4-21.5-5-14). "A decision is arbitrary and capricious when it is made without consideration of the facts and lacks any basis that may lead a reasonable person to make the decision made by the administrative agency." *Ind. Real Est. Comm'n v. Martin*, 836 N.E.2d 311, 313 (Ind. Ct. App. 2005), *trans. denied*.

[9] "[A] court may not overturn an administrative determination merely because it would have reached a different result." *Walker*, 5 N.E.3d at 448. "An

interpretation of statutes and regulations by an administrative agency charged with the duty of enforcing those regulations and statutes is entitled to great weight unless this interpretation would be inconsistent with the law itself." *Id.* However, "[a]lthough an appellate court grants deference to an administrative agency's findings of fact, no such deference is accorded to its conclusions of law." *Id.* "The burden of demonstrating the invalidity of the agency action is on the party who asserts the invalidity." *Id.* at 449.

[10] For background purposes, we note that Congress established Medicaid in 1965 "to provide medical assistance to needy persons whose income and resources are insufficient to meet the expenses of health care." *Brown v. Ind. Fam. & Soc. Servs. Admin.*, 45 N.E.3d 1233, 1236 (Ind. Ct. App. 2015). "The program operates through a combined scheme of state and federal statutory and regulatory authority. States participating in the Medicaid program must establish reasonable standards for determining eligibility, including the reasonable evaluation of an applicant's income and resources." *Id.* (internal citation omitted). "To qualify for Medicaid, an applicant must meet both an income-eligibility test and a resources-eligibility test. If either the applicant's income or the value of the applicant's resources is too high, the applicant does not qualify for Medicaid." *Id.* (internal citation omitted).

II. Medicaid Benefits

[11] An applicant is ineligible for Medicaid for any month in which the total equity value of all their nonexempt property exceeds $2,000. 405 Ind. Admin. Code 2-

3-14(c)(1). This includes "cash or other liquid assets or any real or personal property that an individual . . . owns and could convert to cash to be used for his or her support and maintenance."[2] 20 C.F.R. § 416.1201(a). "If the individual has the right, authority or power to liquidate the property . . . it is considered a resource." 20 C.F.R. § 416.1201(a)(1). Only income and resources that are "available to the applicant" should be considered. 42 U.S.C. § 1396a(a)(17)(B).

[12] Further, the Indiana Health Coverage Program Policy Manual ("IHCPPM") states:

> Resources are available if the owner has the unrestricted right, authority, or legal ability to liquidate or dispose of the property or his share of the property. Resources must be available in order to be counted in the eligibility determination.

IHCPPM §2605.15.00, https://www.in.gov/fssa/ompp/files/Medicaid_PM_2600.pdf.

[13] Hill argues that he was "physically and mentally unable to access, manage or control his own finances pending appointment of a legal guardian because of his medical condition"; therefore, the money in his bank account was unavailable to him and should not have been considered when determining his

[2] "Individuals declared eligible for benefits by reason of age, disability, or blindness are subject to resource definitions and exclusions set forth in 42 U.S.C. [§] 1382b and 20 CFR part 416, Subpart L, Resources." 405 I.A.C. 2-1.1-8.

Medicaid eligibility. Brief of Appellant at 11. However, Hill's argument is contrary to our holding in *Marsh by Steadman v. Vigo Cnty. Dep't of Pub. Welfare,* where we interpreted statutory language that mirrors 20 C.F.R. section 416.1201(a)(1) and IHCPPM section 2605.15.00. 553 N.E.2d 1234, 1236 (Ind. Ct. App. 1990).

[14] In *Marsh,* the petitioner argued that property owned by her was not available to her within the meaning of 470 I.A.C. 9.1-3-16.[3] Under 470 I.A.C. 9.1-3-16, "[i]f the individual had the right, authority or ability to liquidate the property, or his share of the property, it is considered an available resource." The petitioner claimed that because of her mental condition she was unable to enter into sales contracts and liquidate interest she had in the property. However, we determined that

> the term "ability" is simply one term in a disjunctive series, the other pertinent terms being "right" and "authority". An applicant must possess only one such characteristic in relation to his property in order for that property to be considered an available resource.
>
> . . . [Petitioner's] mental condition may very well affect her "ability" to transfer the [] property, however, her "right" to dispose of the property remains intact.

Marsh, 553 N.E.2d at 1236.

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[3] 470 I.A.C. 9.1-3-16 is now 405 I.A.C. 2-3-14 but does not contain the same language.

[15] Both 20 C.F.R. section 416.1201(a)(1) and IHCPPM section 2605.15.00 contain the same disjunctive language as 405 I.A.C. 9.1-3-16 did. Further, Hill fails to provide any Indiana or Federal case law to support his position that "Hill's bank accounts were inaccessible at the time of the application and unavailable as a resource for purposes of Medicaid eligibility."[4] Br. of Appellant at 11. Therefore, pursuant to *Marsh,* because Hill's right and authority over the funds remained intact, the funds were available to him under both 20 C.F.R. section 416.1201(a)(1) and IHCPPM section 2605.15.00.[5] We conclude the trial court did not err by determining the funds in Hill's bank account were available and denying his petition for judicial review.

Conclusion

[16] We conclude the trial court did not err by denying Hill's petition for judicial review. Accordingly, we affirm.

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[4] Hill's only citation to case law from another jurisdiction that supports his position is *Christensen v. N.D. Dep't of Hum. Servs.*, 796 N.W.2d 390 (N.D. 2011). The *Christensen* court found that the "'actually available' requirement must be interpreted reasonably, and the focus is on the applicant's actual and practical ability to make an asset available as a matter of fact, not legal fiction." 796 N.W.2d at 394. However, *Christensen* interprets North Dakota regulatory language which differs from both 20 C.F.R. section 416.1201(a)(1) and IHCPPM section 2605.15.00 and does not apply this standard to a physically or mentally incapacitated applicant. Therefore, we do not find it persuasive.

[5] Hill also argues the "conclusion that an incompetent individual's resources are available is not reasonable[.]" Br. of Appellant at 13. However, as stated above, "[a]n interpretation of statutes and regulations by an administrative agency charged with the duty of enforcing those regulations and statutes is entitled to great weight unless this interpretation would be inconsistent with the law itself." *Walker*, 5 N.E.3d at 448. We conclude that because the statutory language is written in the disjunctive, the IFSSA and trial court's determination that the funds were available to Hill is not unreasonable.

[17] Affirmed.

Riley, J., and Molter, J., concur.