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Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-0119**

In the Matter of the Welfare of the Child of:
W. L. and R. R., Parents.

**Filed July 31, 2017
Reversed and remanded
Toussaint, Judge***

Waseca County District Court
File No. 81-JV-16-667

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Considered and decided by Bjorkman, Presiding Judge; Hooten, Judge; and
Toussaint, Judge.

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

UNPUBLISHED OPINION

TOUSSAINT, Judge

Appellant-father challenges the order determining that appellant's child was a child in need of protection or services (CHIPS), arguing that the district court (1) failed to make particularized findings of fact, (2) failed to apply the correct standard of law, and (3) erred in determining that appellant's child was a CHIPS. We reverse and remand.

DECISION

Appellant-father R.R. and mother W.L. are the biological parents of M.L.R. who was born in October 2008.

On October 18, 2016, Bridget Van Hecke, a family case assessment worker for respondent Minnesota Prairie County Alliance (MNPrairie), filed a petition alleging that M.L.R. was a CHIPS. The petition alleged that Van Hecke began her investigation after Dr. Sarah Beckman, M.L.R.'s pediatrician, sent MNPrairie a report, highlighting that neither R.R. nor W.L. were adequately caring for M.L.R., including her medical conditions. Soon after the petition, M.L.R. was placed in emergency protective care. The district court held a trial on the petition and issued an order adjudicating M.L.R. a CHIPS against R.R. and W.L.¹

There is a "presumption that a natural parent is a fit and suitable person to be entrusted with the care of his or her child." *In re Welfare of A.D.*, 535 N.W.2d 643, 647 (Minn. 1995). "Ordinarily, it is in the best interest of a child to be in the custody of his or

¹ W.L. admitted to M.L.R. being a CHIPS and M.L.R. was adjudicated a CHIPS with respect to W.L., who does not appeal that adjudication.

her natural parents.” *Id.* Thus, a child only meets the statutory definition of a CHIPS under Minn. Stat. § 260C.007, subd. 6 (2016), when the petitioner proves “that one of the enumerated child-protection grounds exists and that the subject child needs protection or services as a result.” *In re Welfare of Child of S.S.W.*, 767 N.W.2d 723, 728 (Minn. App. 2009). “[A]llegations of a petition alleging a child to be in need of protection or services must be proved by clear and convincing evidence.” Minn. Stat. § 260C.163, subd. 1(a) (2016).

“On appeal of a juvenile-protection order, we review the [district] court’s factual findings for clear error and its finding of a statutory basis for the order for abuse of discretion.” *In re Welfare of Child of D.L.D.*, 865 N.W.2d 315, 321 (Minn. App. 2015), *review denied* (Minn. July 21, 2015). A district court’s individual fact-findings will not be reversed “unless the review of the entire record leaves the court with the definite and firm conviction that a mistake has been made.” *In re Welfare of B.A.B.*, 572 N.W.2d 776, 778 (Minn. App. 1998) (quotation omitted). Furthermore, this court closely “inquires into the sufficiency of the evidence to determine whether the evidence is clear and convincing” to sustain the district court’s decision. *S.S.W.*, 767 N.W.2d at 733. In a case such as this, where R.R. did not move for a new trial, this court’s review is limited to whether the record supports the district court’s findings of fact and whether the findings of fact support the district court’s conclusions of law. *Id.*

R.R. argues that the district court’s order adjudicating M.L.R. a CHIPS lacks sufficient particularized findings of facts to facilitate meaningful appellate review. Minnesota law requires written findings setting forth the reasons for a CHIPS adjudication.

Minn. Stat. § 260C.201, subd. 2 (2016). “[A] district court’s recitation of what others have observed is not a finding of fact that those observations are true.” *In re Civil Commitment of Spicer*, 853 N.W.2d 803, 810 (Minn. App. 2014) (quotation omitted). Here, the CHIPS petition noted that R.R. was not fulfilling his role as caregiver in properly addressing M.L.R.’s medical conditions and that M.L.R. is in need of protection or services pursuant to Minn. Stat. § 260C.007, subd. 6(3), (4), (5), (8) (2016).

In the district court’s CHIPS order, however, the court mostly recites the witnesses’ testimony rather than making findings of fact based on that testimony. For example, the district court begins most of its findings with variations of “Dr. Beckman reported . . . ,” “Ms. Warner testified . . . ,” or “Ms. Warner has observed” “This court previously has stated that findings beginning with phrases such as ‘petitioner claims,’ ‘according to petitioner’s application,’ and ‘respondent asserts,’ are not true findings.” *Spicer*, 853 N.W.2d at 810 (quotation omitted). Thus, the district court failed to make particularized findings that would allow us to review its findings against the law it applied.

We note that, in some instances, the district court does make findings of fact. In finding 26, the district court states, “Much more than just the medications, it was the routine that was important to [M.L.R.’s] success.” In reciting Warner’s testimony, the district court makes additional findings. In finding 41, the district court found that R.R. did not engage in services with a personal care attendant. In finding 42, the district court found that R.R. did not utilize offered family based services. And in finding 45, the district court states, “Because consistency was a problem for the parents, having the medications administered at school would have been to [M.L.R.’s] benefit.”

Nonetheless, overall the district court's order does not provide sufficient insight into the facts on which it relied in adjudicating M.L.R. a CHIPS. *See In re Welfare of M.M.*, 452 N.W.2d 236, 239 (Minn. 1990) (noting that for sufficient appellate review, district court's findings must provide insight into facts the court relied on in reaching its ultimate conclusion). Without more, we cannot marry the district court's findings to the statutory grounds on which it based its CHIPS adjudication. Therefore, we reverse the district court's CHIPS adjudication and remand for particularized and sufficient findings to permit meaningful appellate review.²

Reversed and remanded.

² Because we remand for more specific findings, we do not address the other issues raised by appellant.