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STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1575

In re the Marriage of:
Bijoy Raghavan, petitioner,
Respondent,

vs.

Smeeta Antony,
Appellant.

Filed October 29, 2018
Affirmed in part, reversed in part, and remanded
Bratvold, Judge

Scott County District Court
File No. 70-FA-15-22094

Joan L. Miller, Joan Miller Law, Shakopee, Minnesota (for respondent)

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Considered and decided by Jesson, Presiding Judge; Worke, Judge; and Bratvold, Judge.

U N P U B L I S H E D O P I N I O N

BRATVOLD, Judge

In this marriage-dissolution appeal, appellant-mother challenges the district court's order: (1) awarding sole legal custody to respondent-father; (2) awarding mother limited, supervised visitation; (3) determining the amount of permanent spousal maintenance; and

(4) dividing the parties' property and debts. Because the district court did not abuse its discretion in its custody, spousal maintenance, and division of assets determinations, we affirm in part. The record, however, does not support the district court's parenting-time determination; therefore, we reverse in part and remand to the district court to make necessary findings and set a visitation schedule in the children's best interests.

FACTS

Appellant-mother Smeeta Antony and respondent-father Bijoy Raghavan were married in 1997. Mother and father are the parents of twins, R.A.R. and R.N.R., born in 2006. During the children's early lives, mother and father shared parenting responsibilities and were loving and attentive parents.

Father is employed full time as a software consultant and is the president and owner of his own business. Father earns a gross monthly income of $14,458. Mother is not currently employed. Mother received a master's degree in software design and development and previously worked for 15-16 years in the computer science field, earning an income of approximately $140,000 to $200,000 per year. When the children were four years old, mother stopped working outside the home; she briefly worked in her field in 2013.

The parties separated in 2015 and father filed a petition to dissolve the marriage in November 2015. Shortly after, the district court partially granted father's motion for temporary relief. Regarding the children, the district court awarded mother and father temporary joint legal custody, father sole physical custody, and provided parenting time

for mother. Mother received unsupervised parenting time on alternating weekends from 5:00 p.m. on Friday through 5:00 p.m. on Sunday.

The district court held a trial on the dissolution petition on October 18-20, 2016. Father was represented by counsel at trial; mother appeared pro se. Father testified that, in 2010, mother began to exhibit signs of mental illness. He testified about mother's "paranoid behavior" and described several incidents when mother said "somebody [was] watching her from the windows," and "the house . . . and the phones [were] bugged." Father testified that, in 2012, the police were called because mother was talking to herself, banging on the kitchen countertops, and screaming profanity in the middle of the night. Father testified that mother screamed that she would "kill you," "I'm not going to let you live," but he was not sure who mother was speaking about. After a 72-hour hold, mother was committed.

After the commitment, mother took medications as prescribed and worked part time; father testified that the family was "back on track." In February 2013, mother told father that she was going to "stop the medication"; soon after, father testified that mother's symptoms returned. Father testified that, in 2014, mother locked herself and the children in the bedroom and would not let them out even though the children were crying and saying that they wanted to leave. Father called the police and mother was hospitalized.

Father reported that mother would yell, "look right through you," and use profane language; father also stated that the children would call him at work, saying that mother "was using the 'F word' repeatedly." Father described mother as "regimented" with the children, requiring them to do extra homework, instrument practice, and stay up late or get up very early. Father testified that mother would not speak to him and all communication

between them was by email; mother also sent him an invoice at the end of each month, even though he paid all household expenses.

Father testified that the children were enrolled in public schools and doing well academically. The children were involved in many activities, including ice-skating and choir, and they played piano and flute. Father testified that he had “safety concerns” during the children’s unsupervised time with mother because her driving is “very bad.” Father testified that the children were anxious after visiting mother and described mother as “talking to herself and then laughing out loud” and “screaming and yelling profanities.”

Eva Cheney-Hatcher, a court-appointed custody evaluator, testified regarding her investigation and report, which recommended that father be awarded sole legal and physical custody and mother be awarded limited, supervised parenting-time. She also recommended that any modifications to mother’s parenting-time should be “conditioned upon her completion of an updated psychiatric evaluation, her cooperation with recommended treatment, and recommendations of appropriate therapeutic professionals.”

Cheney-Hatcher testified that father was “very gentle, very nurturing,” focused on the well-being of the children, and that father was concerned about mother’s “mental health as it impacted the children.” Cheney-Hatcher testified that mother was “very smart and very articulate,” but told her about “organized stalking” by police, the sheriff’s office, and the community. Cheney-Hatcher reported that mother provided videos of her being “stopped by the police” and several internet sources about stalking and harassment. Cheney-Hatcher testified that both parents have the ability to describe the children’s needs and development, and the children were “healthy well rounded individual[s].” But Cheney-

Hatcher also stated that mother's mental-health issues have negatively impacted her ability to parent.

Dr. Beth Harrington, a licensed psychologist, completed psychological evaluations of each parent and testified regarding her custody and visitation recommendations. Dr. Harrington recommended that mother receive limited, supervised parenting time. Specifically, Dr. Harrington recommended four to six hours or, if that is not affordable, two to four hours for mother's visiting time.

Dr. Harrington's evaluation stated that mother's diagnosis was schizoaffective disorder, and, although mother responded well to medication, she currently was not taking any medications. During her evaluation, mother told Dr. Harrington that she felt "victimized or persecuted" by the court system and her husband, as well as by law enforcement and "kind of the system in general." Mother also told Dr. Harrington that father was physically abusive and tried to control everything. Mother said that she did not call the police because she was "not raised to pick up [the] phone and call law enforcement." Dr. Harrington, however, testified that "[t]here was no information in the records that [she] reviewed that [father] was physically abusive or verbally or emotionally abusive during the course of the marriage." Dr. Harrington concluded that mother's prior diagnosis of schizoaffective disorder remained valid, and that mother lacked insight as to her illness, exhibited paranoid ideation, and resisted treatment.

Mother also testified at trial. She contested her diagnosis, stating that she did not believe a person with mental illness would be able to "stay in control outside of the house" and function in the community like she can. Mother testified that, in 2010, she had surgery

and believed she “was implanted with something on that surgery table.” Mother also testified regarding “organized crime,” radiation exposure, brain “hack,” “electronic harassment,” her interactions with law enforcement, and her belief that law enforcement was stalking her.

Mother claimed that she was falsely committed and, upon discharge, was not told that she had to remain on any medication, but did so until she “could educate [her]self better” and determined that she did not need the medication. Mother also testified that she attempted to obtain work with many consulting companies, but they would not hire her because of her mental-health “record.”

Mother testified that she and father separated in 2010, but continued to reside together for the children. Mother also testified that father abused her by “slapping, shoving, pushing [her] around, pushing [her] down on the bed,” and that he intimidated her.

When the district court inquired, mother stated that she wanted sole legal and physical custody. The district court asked mother if she was willing to have a psychiatric evaluation and pursue mental health treatment, and mother replied:

> [T]reatment is contingent on the fact that you can prove that I’m ill; and that you can prove the fact that the exposure to radiation is false; that you can prove the fact that there are no drones in the sky; that you can prove the fact that I’m not being stalked; that you can prove the fact that—even the notion of the fact that I am a victim is so unacceptable to you, and if it is so unacceptable to you, help me understand why a schizophrenic this ill can operate in the community.

Both parties submitted written arguments after the dissolution trial.

On March 29, 2017, the district court issued findings of fact, conclusions of law, order for judgment, and judgment decree, including the following determinations:

Custody and parenting time: After reviewing and analyzing the statutory factors set out in Minn. Stat. § 518.17, subd. 1(a) (2016), regarding the best interests of the children, the district court awarded sole legal and sole physical custody of the children to father. The district court granted supervised parenting time to mother for two hours on alternating weekends at a visitation center or other agreeable location. The district court ordered that father provide transportation for the children, and that mother would be responsible for visitation fees. The district court also provided mother with supervised visitation on Christmas, Easter, and the children's birthday. The district court's order provided that, if mother completed a psychiatric evaluation and complied with all recommended treatment, and "upon the recommendation of her treating professional and/or the Children's therapist," mother could request increased and unsupervised parenting time.

Spousal maintenance: The district court determined that father "shall pay permanent spousal maintenance to [mother] in the amount of $4,050.00 per month." The district court's judgment stated that father was "agreeable to paying spousal maintenance" in this amount, and this award was "also agreeable to [mother.]" Although father contended that the court should award temporary maintenance, the district court determined that mother's history of serious mental illness supported an award of permanent maintenance.

Property division: The district court ordered that the homestead be sold; it was purchased in 2002 for $385,000 and was encumbered by a mortgage with a balance of $215,768.83. The district court ordered that the parties equally divide the proceeds from

the homestead and also ordered the division of the parties' household furnishings and goods, vehicles, personal property, and bank, savings, and retirement accounts.

Mother filed a motion for amended findings, challenging the district court's determinations regarding custody, spousal maintenance, and the division of property. Father opposed the motion, which the district court denied. Mother appeals.

D E C I S I O N

I. The district court did not abuse its discretion in granting sole legal custody to father, but the district court's parenting-time determination is not supported by the record.

A. Custody

Mother argues that the district court abused its discretion in granting father sole legal custody. A district court has broad discretion to provide for the custody of children after dissolution. *Hansen v. Todnem*, 908 N.W.2d 592, 596 (Minn. 2018). We review custody decisions to determine whether the district court abused its discretion by making findings "unsupported by the evidence or by improperly applying the law." *Pikula v. Pikula*, 374 N.W.2d 705, 710 (Minn. 1985). This court will defer to the district court's findings of fact unless they are clearly erroneous, and will defer to the district court's credibility determinations. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988).

Minnesota Statutes § 518.17 lists 12 factors, bearing on the best interests of the children, that the district court must consider to determine custody and parenting time. Minn. Stat. § 518.17, subd. 1(a)(1)-(12); *Hansen*, 908 N.W.2d at 596. Here, the district court analyzed the 12 best-interests factors and concluded that each factor in the statute

favored an award of sole legal and sole physical custody to father, except the factor addressing domestic abuse, which the district court concluded did not apply in this case.[1]

On appeal, mother argues that the district court's findings were not supported by the record and the court did not consider all relevant factors. Specifically, mother argues that the district court misapplied the first, fourth, fifth, sixth, and twelfth factors.[2] Mother does not challenge the district court's determinations regarding Minn. Stat. § 518.17, subd. 1(a)(2), (3), (7), (8), (9), (10), or (11). We address each of mother's objections in turn.

First, Minn. Stat. § 518.17, subd. 1(a)(1), requires that the district court consider the children's "physical, emotional, cultural, spiritual, and other" needs and the effect of the proposed arrangement on the children's needs and development. Mother argues that the district court abused its discretion in applying this factor because it did not find, and the record does not show, that mother "ever physically harmed either of the children." Mother

[1] The 12 factors are: (1) the children's physical, emotional, and other needs; (2) special medical, mental health, or educational needs; (3) the preferences of the children; (4) whether domestic violence has occurred; (5) the parents' physical, mental, or chemical health issues; (6) the history of parent's participation in providing children's care; (7) the willingness and ability of parents to provide ongoing care for the children; (8) the effect on the children's well-being and development of changes to home, school, and community; (9) the impact of the proposed arrangements on the ongoing relationships between the children and parents; (10) the benefit to the children in maximizing parenting time with both parents; (11) the disposition of each parent to support the children's relationships with the other parent; and (12) the willingness and ability of parents to cooperate in the rearing of their children. Minn. Stat. § 518.17, subd. 1(a).

[2] Mother's brief to this court initially states that she challenges the "first, fourth, sixth, and eleventh" factors, but it appears, based on her analysis, she actually challenges the first, fourth, fifth, sixth, and twelfth factors.

also argues the record shows that, before she and father separated, she met the children's physical needs "on a daily basis."

The district court determined that mother's untreated mental illness negatively affected her ability to provide for the children's physical, emotional, and other needs. Specifically, the district court found that mother failed to provide for the children's need "to feel safe and secure," did not recognize the children's need to socialize, failed to display any affection for the children, and did not communicate with the children between visits. These findings are supported by the record.

Also, mother has not provided any authority, and we have found none, to support her assertion that the absence of physical harm is determinative when considering the first factor. In fact, mother's assertion contradicts the statute, which requires that the district court consider not only the children's physical needs, but their "emotional, cultural, spiritual, and other needs" as well. Minn. Stat. § 518.17, subd. 1(a)(1). Here, the district court concluded that mother's mental illness had impaired her ability to provide for the children's physical needs. The district court found that mother's "speeding and other erratic driving conduct" puts the children's physical needs and safety at risk, and that mother locked the children in a room, which required police intervention. The district court's findings and conclusions regarding the first best-interest factor are supported by the record.

Second, mother argues that the district court erred in concluding that there was "no evidence of domestic abuse" and thus, that Minn. Stat. § 518.17, subd. 1(a)(4), was not applicable to its best-interest analysis. Mother testified at trial that father physically abused her by "slapping, shoving, pushing [her] around, [and] pushing [her] down on the bed." In

addition, mother offered statements from her parents describing several incidents where father was "controlling," used "abusive profane language," "exhibited physically abusive behavior," and "undermine[d] [mother's] role as a mother in the girl's life." During her interview with Cheney-Hatcher, mother also described domestic abuse by father, stating that father "had hit and slapped her from 2010-2012. He trashed ornaments and slapped her, and slapped her through the course of the marriage." During her psychological evaluation, mother told Dr. Harrington that father was a "very controlling abusive individual" and was "physically abusive."

Dr. Harrington testified, however, that "[t]here was no information in the records that [she] reviewed that [father] was physically abusive or verbally or emotionally abusive during the course of the marriage." Similarly, Cheney-Hatcher testified that she could not "find anything that substantiated" mother's claims of physical abuse and that she did not see the "dynamics that are present when there's domestic abuse." The district court determined that mother's claim of domestic abuse "appears to be a product of her mental illness," implicitly finding Cheney-Hatcher and Dr. Harrington's testimony more credible than mother's testimony. We conclude that the record supported the district court's determination that the fourth factor was not applicable.

Mother also objects to the district court's determination that the fifth factor favors an award of sole custody to father. Subdivision 1(a)(5) requires that the district court consider whether there is "any physical, mental, or chemical health issue of a parent that affects the child's safety or developmental needs." Minn. Stat. § 518.17, subd. 1(a)(5). Mother argues that the record does not support the district court's finding that father had

to step in to ensure the children's safety when they were with mother. Mother also argues that the district court's order placed "an overwhelmingly undue emphasis on [m]other's mental health condition, to the exclusion of almost every other factor."

We do not agree with mother's description of the record. The evidence established that, on several occasions, the children called father at work and asked him to come home because they "were scared" of mother, and complained to father about mother's driving and speeding. Also, the district court found that mother has a "significant history of speeding and other moving traffic violations." Additionally, while the district court considered mother's mental illness in its custody decision, it did so only as it related to the best interests of the children. A district court properly considers a parent's mental illness to determine its impact on the parent's ability to care for a child. *See Schumm v. Schumm*, 510 N.W.2d 13, 15 (Minn. App. 1993) (district court properly considered mother's mental illness, because it was examined "only to the extent it was relevant to the best interests of the children"). Here, the record evidence includes that mother's mental illness has resulted in "paranoid behaviors," unsafe driving, "talking to herself," use of profanity, and other behaviors which are "upsetting and frightening" for the children.

Mother cites *Uhl v. Uhl*, 413 N.W.2d 213, 217 (Minn. App. 1987) and *Hreha v. Hreha*, 392 N.W.2d 914, 917 (Minn. App. 1986) in support of her argument that her mental illness should not be determinative of the district court's custody decision. But here, unlike *Hreha* and *Uhl*, the district court found that mother currently suffers from an untreated mental illness that interferes with her ability to parent. *See Uhl*, 413 N.W.2d at 217 (finding that custody was properly awarded to respondent because there was "no evidence that

respondent suffers from a major mental illness"); *Hreha*, 392 N.W.2d at 917 (determining that respondent was "no longer seriously mentally ill and that she was competent to parent"). We conclude that the district court's finding that mother's mental illness "interferes with her ability to appropriately parent the children" is supported by the record.

Next, section 518.17, subdivision 1(a)(6), requires the district court to consider the history and nature of each parent's participation in the children's care. Minn. Stat. § 518.17, subd. 1(a)(6). Mother argues that she was the children's primary caretaker for several years, and thus, the district court erred. In fact, the district court found that parents shared parenting responsibilities during the "first few years." Further, the district court found, and the record shows, that because of mother's untreated mental illness, father became the children's primary caretaker. While it is true that mother was the primary caretaker for several years, the district court's determination that both parents participated in the children's care over the years is not an abuse of discretion.

Finally, section 518.17, subdivision 1(a)(12), requires that the district court consider the parties' ability to co-parent. Minn. Stat. § 518.17, subd. 1(a)(12). The district court concluded that the parties have "previously demonstrated an ability to co-parent," but, "due to [mother's] mental illness, she does not currently have the ability to communicate or cooperate about parenting in a meaningful and effective way," and therefore, this factor favors an award of custody to father. Mother argues that this finding is not supported by the record. We disagree. Father reported that mother would only communicate with him by email and would not inform him about logistics of the children's schooling or of the

children's schedules. The district court's finding that the twelfth factor favors an award of custody to father is supported by the evidence.

Because the district court's best-interests determinations are supported by the record, and the court appropriately concluded that sole legal custody to father was in the children's best interests, we affirm.

B. Parenting time

Mother also argues that the district court abused its discretion in its parenting-time determination. The district court has broad discretion in deciding parenting-time questions based on the best interests of the children and will not be reversed absent an abuse of discretion. *Braith v. Fischer*, 632 N.W.2d 716, 721 (Minn. App. 2001), *review denied* (Minn. Oct. 24, 2001). A district court's findings of fact, on which a parenting-time decision is based, will be upheld unless they are clearly erroneous. *Griffin v. Van Griffin*, 267 N.W.2d 733, 735 (Minn. 1978).

Under Minn. Stat. § 518.175, subd. 1(a) (2016), the district court shall "grant such parenting time on behalf of the child[ren] and a parent as will enable the child[ren] and the parent to maintain a child to parent relationship that will be in the best interests of the child[ren]." Minn. Stat. § 518.175, subd. 1(a). "[T]here is a rebuttable presumption that a parent is entitled to receive a minimum of 25 percent of the parenting time for the child[ren]." *Id.*, subd. 1(g) (2016). If "parenting time with a parent is likely to endanger the child[ren's] physical or emotional health or impair the child[ren's] emotional development, the court shall restrict parenting time with that parent as to time, place, duration, or supervision and may deny parenting time entirely, as the circumstances warrant." *Id.*, subd.

1(b) (2016). The "paramount issue" for the district court in making parenting-time determinations must be the "welfare and best interests of the children." *Petersen v. Petersen*, 296 Minn. 147, 148, 206 N.W.2d 658, 659 (1973); *see also Schisel v. Schisel*, 762 N.W.2d 265, 270 (Minn. App. 2009) (noting that the fundamental focus is on the children's best interests).

Mother argues that the district court abused its discretion because it only awarded her "two hours of supervised parenting time every two weeks, as well as requiring that this parenting time take place in a visitation center." She contends that the district court's "severe limitation of parenting time" does not allow the children and mother to maintain a relationship that is in the children's best interest. Mother also argues that unsupervised visitation time is in the children's best interest.

Both Cheney-Hatcher and Dr. Harrington testified that supervised visitation was appropriate until mother received an updated psychiatric assessment, because mother did not realize the impact that her behavior had on the children. Dr. Harrington further testified that the children were vulnerable and needed "two parents that are in good mental health to parent them, and that that should be a prerequisite for parenting time." We conclude that the record supports the district court's finding that supervised parenting time is in the children's best interest.

We are troubled by the limited amount of parenting time awarded to mother. The district court's order made no findings regarding its decision to grant mother two hours on alternating weekends. *See, e.g.*, *Rosenfeld v. Rosenfeld*, 249 N.W.2d 168, 171 (Minn. 1976) (stating, in a custody dispute, that findings on the statutory factors are required because

they "(1) assure consideration of the statutory factors by the family court; (2) facilitate appellate review of the family court's custody decision; and (3) satisfy the parties that this important decision was carefully and fairly considered by the family court"); *Hesse v. Hesse*, 778 N.W.2d 98, 104 (Minn. App. 2009) (citing this aspect of *Rosenfeld* in a parenting-time dispute). In addition, our review of the record does not reveal any support for or discussion of reducing mother's parenting time to two hours on alternate weekends.

Dr. Harrington briefly testified that "the expense and availability [of supervised parenting time] would be something to overcome. But I would think something in the order of four to six hours or, if that is not affordable, two to four hours." The record does not include any testimony or other evidence that more than two hours of supervised parenting time was cost-prohibitive for mother. Given that the temporary parenting-time schedule allowed mother to have unsupervised parenting time on alternating weekends from 5:00 p.m. on Friday to 5:00 p.m. on Sunday, this court cannot conclude that the district court's new schedule is within its discretion without additional evidence or factual findings. *See* Minn. Stat. § 518.175, subd. 1(b) (providing that parenting time may be restricted if a district court determines a child's emotional development will be impaired).

Accordingly, we reverse the district court's two-hour parenting-time restriction and remand to the district court to make findings and determine a schedule in the children's best interests. We note that the district court's order provides that a modification in parenting time can be made pursuant to the parties' agreement, and urge the parties to take the opportunity to mutually agree on a parenting-time schedule that will be in the children's best interests.

II. The district court did not abuse its discretion in setting spousal maintenance.

A district court has "wide discretion" in setting a spousal-maintenance award, and its determination is "final" absent an abuse of that discretion. *Erlandson v. Erlandson*, 318 N.W.2d 36, 38 (Minn. 1982). "Findings of fact concerning spousal maintenance must be upheld unless they are clearly erroneous." *Gessner v. Gessner*, 487 N.W.2d 921, 923 (Minn. App. 1992).

In challenging the district court's determination of permanent spousal maintenance, mother argues that (a) the district court clearly erred when it found that mother agreed to a spousal-maintenance award of $4,050 per month; (b) the district court failed to analyze the statutory factors in Minn. Stat. § 518.552, subd. 2 (2016); and (c) the district court abused its discretion because it did not secure the spousal-maintenance award with a life insurance policy. We consider each issue in turn.

A. Agreement

The district court determined that spousal maintenance in the amount of $4,050 was "agreeable to [mother.]" Mother argues that this finding "is clearly erroneous," because, in her closing arguments, submitted to the court in writing after the dissolution trial, she agreed to father's proposed maintenance amount "contingent on" several terms. Even assuming the district court incorrectly described mother's agreement on the amount of the spousal-maintenance award, we conclude that the district court adequately considered the statutory factors in the analysis below.

B. Statutory factors

Spousal maintenance is "an award made in a dissolution or legal separation proceeding of payments from the future income or earnings of one spouse for the support and maintenance of the other." Minn. Stat. § 518.003, subd. 3a (2016). A district court may grant an award of spousal maintenance if it finds that one party either:

> (a) lacks sufficient property, including marital property apportioned to the spouse, to provide for reasonable needs of the spouse considering the standard of living established during the marriage, especially, but not limited to, a period of training or education, or
> (b) is unable to provide adequate self-support, after considering the standard of living established during the marriage and all relevant circumstances, through appropriate employment.

Minn. Stat. § 518.552, subd. 1 (2016); *see also Lyon v. Lyon*, 439 N.W.2d 18, 22 (Minn. 1989).

If an award of spousal maintenance is warranted, it "shall be in amounts and for periods of time, either temporary or permanent, as the court deems just, without regard to marital misconduct, and after considering all relevant factors." Minn. Stat. § 518.552, subd. 2 (2016). If the district court awards maintenance, it must consider eight factors to determine the duration and the amount of the award. *Id.*; *see also Kampf v. Kampf*, 732 N.W.2d 630, 633-34 (Minn. App. 2007), *review denied* (Minn. Aug. 21, 2007). No single factor for determining the type or amount of maintenance is dispositive. *Broms v. Broms*, 353 N.W.2d 135, 138 (Minn. 1984). The district court, in essence, balances "the recipient's need against the obligor's ability to pay." *Prahl v. Prahl*, 627 N.W.2d 698, 702 (Minn. App. 2001).

Mother argues that the district court failed to "analyze the relevant factors" when it determined the amount of the monthly spousal-maintenance award. Mother argues that the "[a]nalysis of these factors clearly demonstrates that [m]other is entitled to substantially greater spousal maintenance." Under Minn. Stat. § 518.552, subd. 2(a), the district court must consider the financial resources of the spouse seeking maintenance to provide for her needs independently. *See* Minn. Stat. § 518.552, subd. 2(a). Mother argues that she has no ability to meet her needs independently. The district court agreed and determined that mother is "unable to provide adequate self-support through appropriate employment." Here, the district court granted mother a permanent spousal-maintenance award. We address each of mother's four objections in turn.

First, mother argues that the "amount of spousal maintenance awarded is based upon a monthly expense list" which will require mother to "invade the marital assets" to purchase real property, thereby decreasing her monthly housing costs. She argues that her reasonable monthly housing expenses will "far exceed $1,500." But mother's argument is not supported by the record. The district court found that mother's monthly living expenses, following the divorce, were "anticipated to be approximately $3,767." In addition, the spousal-maintenance award, proposed by father and adopted by the district court, allots mother approximately $1,800 per month to spend on housing costs. Mother did not submit any evidence to prove that her housing costs will be more than the amount determined by the district court.

Second, mother argues that the parties enjoyed a high standard of living during the marriage and therefore, she is entitled to "substantially greater spousal maintenance than

awarded by the district court." *See* Minn. Stat. § 518.552, subd. 2(c). But the district court considered the parties' standard of living, father's ability to pay, and mother's monthly expenses. In addition, due to her mental illness, mother left the workplace in 2013 and has not worked outside the home since that time. Although the family's standard of living was higher when both parties worked outside the home, the district court was required to consider father's *current* ability to meet his needs, while meeting those of the mother. *See* Minn. Stat. § 518.552, subd. 2(g) (providing the district court must consider "the ability of the spouse from whom maintenance is sought to meet needs while meeting those of the spouse seeking maintenance"). The district court's determination that $4,050 was sufficient for mother's maintenance is supported by the record.

Third, mother argues that the length of her absence from the workplace, loss of earnings, benefits, and other employment opportunities, her age, and her "psychological condition . . . clearly militate in favor of a substantial spousal maintenance award." Mother, again, does not specify the amount of spousal maintenance, nor does she identify any record evidence establishing a different award amount. It is true that poor health, absence from employment, and loss of employment opportunities may support an award of permanent maintenance. *See McConnell v. McConnell*, 710 N.W.2d 583, 586 (Minn. App. 2006). Here, the district court determined that based on mother's current symptoms and mental health diagnosis, mother is "unable to provide adequate self-support" and is unable to work. Thus, the court awarded mother permanent maintenance. The district court's findings have ample support in the record.

Fourth, mother argues that father can "easily meet his financial needs while meeting those of [m]other." *See* Minn. Stat. § 518.552, subd. 2(g). Father's monthly income, as determined by the district court, is $14,458. The district court concluded that father's monthly living expenses are $7,632. Mother argues, therefore, that father has $6,826 available for mother's support, and she is entitled to a greater award. But spousal maintenance is based on showing of need by the spouse seeking maintenance. *Lyon*, 439 N.W.2d at 22 ("Because maintenance is awarded to meet need, maintenance depends on a showing of need."). The district court concluded that mother's monthly living expenses were approximately $3,767, and this finding is supported by the record.

The district court sufficiently considered the statutory factors, and thus, we affirm the district court's decision to award mother permanent spousal maintenance of $4,050 per month.

C. Life insurance

Mother argues that the district court abused its discretion because it failed to "secure the spousal maintenance award." A district court has broad discretion to require life insurance to secure a spousal-maintenance obligation and this court reviews the district court's decision regarding life insurance under the abuse-of-discretion standard. *Kampf*, 732 N.W.2d at 635. Factors justifying security for a spousal-maintenance award include the obligee's age, education, vocational experience, and employment prospects. *Maeder v. Maeder*, 480 N.W.2d 677, 679-80 (Minn. App. 1992).

Here, the record supports the district court's finding that father was not required to secure the spousal-maintenance award with a life insurance policy. The district court

determined that, although mother suffers from a mental illness, she is 44 years old, is "bright, educated, and capable" of restoring her mental health and "once again becom[ing] self-supporting." Further, the district court found that mother has a master's degree and worked in high-income positions until leaving the workforce when the children were four years old. Dr. Harrington's testimony supports the district court's conclusion. She testified that mother's mental illness is manageable and "treatable" and that mother "could be restored to her prior level of functioning."

Still, mother argues that this court's decision in *Kampf v. Kampf* supports her claim that the maintenance award should have been secured. *See* 732 N.W.2d at 635. But in *Kampf*, the spouse seeking life insurance as security for her maintenance award had a "high-school equivalency degree, limited work experience, and an ability to earn $14,872 per year after training." *Id.* Mother's circumstances are distinguishable based on her education, vocational experience, and employment prospects. *See Maeder*, 480 N.W.2d at 679-80. The district court did not abuse its discretion in refusing to require father to secure the maintenance award with a life insurance policy.

III. The district court did not abuse its discretion in its division of the parties' assets and debts.

Mother argues that the district court abused its discretion in its division of the marital estate. The district court has broad discretion over the division of marital property. *Sirek v. Sirek*, 693 N.W.2d 896, 898 (Minn. App. 2005). This court will not alter a property division "absent a clear abuse of discretion or an erroneous application of the law," even if it would have taken a different approach. *Id.* This court defers to "the [district] court's findings of

fact and will not set them aside unless they are clearly erroneous." *Id.* (quotation omitted). This court will affirm a district court's division of property if that division has "an acceptable basis in fact and principle." *Antone v. Antone*, 645 N.W.2d 96, 100 (Minn. 2002).

Under Minn. Stat. § 518.58, subd. 1 (2016), a district court "shall make a just and equitable division of the marital property of the parties" after considering several factors. Minn. Stat. § 518.58, subd. 1. Those factors include "the length of the marriage, any prior marriage of a party, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, needs, opportunity for future acquisition of capital assets, and income of each party." *Id.* Additionally, for purposes of equitable division of the marital estate, "[i]t shall be conclusively presumed that each spouse made a substantial contribution to the acquisition of income and property while they were living together as husband and wife." *Id.* A division of marital debts is treated the same as a division of marital assets. *Justis v. Justis*, 384 N.W.2d 885, 889 (Minn. App. 1986), *review denied* (Minn. May 29, 1986).

Mother argues that the district court abused its discretion because it failed to award an "unequal distribution of property/debts in favor of [m]other because of her lesser ability to earn income and gain assets in the future." Mother argues that she has no "ability to earn income," while father has "a very healthy income and there is no indication . . . that this earning capacity is unlikely to continue." Accordingly, mother argues, the district court should have awarded her all of the proceeds from the sale of the family home. This court will affirm the district court's division of property if it had an "acceptable basis in fact and

principle." *Antone*, 645 N.W.2d at 100. The district court stated that it intended to divide the parties' marital property equally, which is an acceptable method of dividing marital property. *See Freking v. Freking*, 479 N.W.2d 736, 740 (Minn. App. 1992). Therefore, the district court did not abuse its discretion in allocating an equal distribution of the property, including the proceeds from the sale of the home.

Mother also argues that she "contributed substantially to the acquisition, preservation, and appreciation in the amount or value of the marital property, including through assisting with [f]ather's business and concentrating on paying off the mortgage." She argues, therefore, that the district court abused its discretion by failing to award "an unequal distribution of property/debts in favor of [m]other." Under section 518.58, subdivision 1, "[t]he court shall also consider the contribution of each in the acquisition, preservation, depreciation or appreciation in the amount or value of the marital property, as well as the contribution of a spouse as a homemaker." Minn. Stat. § 518.58, subd. 1. Here, the district court considered the mother's contribution to the appreciation of the parties' assets, due to her higher salary for a period of time during the parties' marriage, and nonetheless concluded that the parties' property "should be divided equally." Thus, the district court did not abuse its discretion in its property division.

Mother makes other specific objections to the district court's division of the parties' property. For example, father has a bank account that he testified was used for his business. Mother argues that the district court abused its discretion in failing to include the business account in its division of the parties' bank accounts, claiming that this account was a marital asset and should have been divided between the parties. The district court concluded that

the business account was "considered in the calculation of" father's monthly income, and therefore, was accounted for in his ability to pay spousal maintenance. The supreme court has established that the district court should not consider a party's assets to determine both the party's maintenance obligation and in the property-division analysis. *See Lee v. Lee*, 775 N.W.2d 631, 639 (Minn. 2009). Accordingly, the district court did not abuse its discretion.

The district court also determined that the parties owned two cars: (1) a 2015 Mazda CX-9 and (2) a 2015 Toyota Rav 4. Mother was awarded the 2015 Toyota and father was awarded the 2015 Mazda. The district court ordered father to pay mother $2,019.50 "for equalization of the vehicle values." Mother argues that the district court clearly erred in calculating the vehicle equalizer. Based on our review of the district court's decision, we conclude that the district court disregarded the negative value of the 2015 Toyota and determined that the equalizer payment would address the positive net value of the 2015 Mazda. Because the district court's calculation of the equalizer payment has "an acceptable basis in fact and principle," we conclude that it did not abuse its discretion and affirm. *See Antone*, 645 N.W.2d at 100.

Next, mother argues that the district court erred because it failed to award mother additional assets as compensation for her stolen nonmarital jewelry. The parties' home was burglarized in 2013 and mother's jewelry and father's iPad were stolen. According to mother, the parties received approximately $5,800 in insurance payments from the burglary, but she only received $3,500 of that payment. But mother did not submit any evidence of the additional jewelry that was stolen or any evidence showing that the jewelry

was covered by the insurance policy. Because mother did not provide evidence to support her claim that she was entitled to the entire insurance payment, the district court did not abuse its discretion. *See Eisenschenk v. Eisenschenk*, 668 N.W.2d 235, 243 (Minn. App. 2003) (stating that a party cannot complain about a district court's failure to rule in her favor when she did not submit the evidence that would allow it to do so), *review denied* (Minn. Nov. 25, 2003).

Mother also challenges the district court's decision to award father the parties' piano. Father argued to the district court that he should be awarded the piano because the children are living with him and need to be able to practice piano. We conclude that the district court's decision to award father the piano is not an abuse of discretion.

Finally, mother argues that the district court failed "to address, and require [f]ather to pay, certain debts." As stated above, the division of marital debts is treated the same as the division of marital assets. *Justis*, 384 N.W.2d at 889. The district court implicitly determined that father's explanation of the debts was more credible than mother's unsupported assertions, and therefore, we affirm the district court's decision not to require father to pay these debts. *See Sefkow*, 427 N.W.2d at 210 (providing that appellate courts must defer to the district court's credibility determinations).

Affirmed in part, reversed in part, and remanded.