This opinion is nonprecedential except as provided by Minn.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
A21-1466

Asha Ahmed,
Appellant,

vs.

Nicollet County Health and Human Services,
Respondent,

Jodi Harpstead - Commissioner of Human Services,
Respondent.

Filed July 25, 2022
Affirmed
Bratvold, Judge

Nicollet County District Court
File No. 52-CV-20-621

Nicole M. Mourgos, Southern Minnesota Regional Legal Services, Inc., Mankato, Minnesota (for appellant)

Michelle M. Zehnder Fischer, Nicollet County Attorney, Megan E. Gaudette Coryell, Assistant County Attorney, St. Peter, Minnesota (for respondent county)

Keith Ellison, Attorney General, R.J. Detrick, Assistant Attorney General, St. Paul, Minnesota (for respondent commissioner)

Considered and decided by Bjorkman, Presiding Judge; Segal, Chief Judge; and Bratvold, Judge.

NONPRECEDENTIAL OPINION

BRATVOLD, Judge

Appellant challenges the district court's order affirming the decision of the commissioner of human services to disqualify appellant from the Minnesota Family Investment and Diversionary Work Programs for one year. Appellant asks us to reverse, arguing the commissioner erred in three ways: (1) by exceeding her statutory authority and issuing an untimely decision, (2) by making factual findings not supported by substantial evidence, and (3) by failing to provide a recording of the evidentiary hearing, which deprived appellant of a fair opportunity for judicial review. Because we conclude the commissioner did not exceed her statutory authority, substantial evidence supports the challenged factual findings, and appellant's substantial rights were not prejudiced by the lack of a recording and transcript of proceedings, we affirm.

FACTS

These facts are taken from the amended decision issued by respondent commissioner of human services (commissioner) and are supplemented by the record when relevant to the issues on appeal.

On October 29, 2019, appellant Asha Ahmed submitted a combined application form (application) to respondent Nicollet County Health and Human Services (county) requesting benefits from the Supplemental Nutrition Assistance Program, the Minnesota Family Investment Program (MFIP), and the Diversionary Work Program (DWP). On the application, Ahmed selected Somali as her preferred spoken language, English as her preferred written language, and answered, "no," when asked if anyone in her household

had “a job or expect[ed] to get income from a job this month or next month.” Ahmed signed the application, which acknowledged that she would “not give false information or hide information to continue to get benefits.”

On November 7, 2019, Ahmed met with a county eligibility worker, L.R., for a routine interview about her application. L.R. discussed Ahmed’s rights and responsibilities and provided Ahmed with documents outlining her rights, reporting obligations, and other applicant responsibilities. Ahmed confirmed she was unemployed and told L.R. she was seeking employment.

On November 12, 2019, L.R. received a message that an employer had hired Ahmed. L.R. called Ahmed to ask about this message, and Ahmed told L.R. “that she had orientation” with the employer “that same evening of November 12, 2019, but she was not sure what hours she would be working.” Ahmed provided L.R. with the employment-offer letter from the employer. The offer letter, dated October 29, 2019, included Ahmed’s signature, which showed she accepted employment. The offer letter also stated that Ahmed’s orientation was November 11, 2019, and that Ahmed was scheduled to work over 40 hours per week after orientation. The employer later provided the county with an employment-verification letter confirming that Ahmed attended orientation and worked her first shift on November 11, 2019.

L.R. referred Ahmed’s case to a fraud-prevention investigator (investigator). On November 18, 2019, the investigator interviewed Ahmed, who stated that a friend’s daughter helped her complete the application. Ahmed told the investigator that she knew

she had to be truthful on the application and that she remembered L.R. explaining Ahmed's rights, obligations, and responsibilities about the application.

At first, Ahmed told the investigator that she was *not* offered employment and did *not* sign the offer letter on the same day she applied for benefits. Ahmed claimed she did not tell L.R. about the job because "it was a temp job," she did not know if she was starting work, and "she was focused on her financial issues." Ahmed stated that "she understood that the job would affect how much she would receive in public benefits."

The investigator concluded Ahmed committed an intentional program violation by providing false information or withholding information to obtain public assistance benefits. On November 21, 2019, the county notified Ahmed that it denied her application for "cash benefits."

Ahmed appealed the benefits denial on November 25, 2019. Ahmed's appeal was scheduled for an evidentiary hearing in December 2019, but the county requested a continuance to proceed with an administrative-disqualification hearing. After the continuance was granted, the county asked that Ahmed's appeal and the administrative-disqualification hearing be combined. The combined cases were set for an evidentiary hearing before a human-services judge (HSJ) on March 2, 2020, which the HSJ continued until March 6. No audio recording exists for either day of the hearing.

During the evidentiary hearing, Ahmed testified that she cannot read or write English or Somali. Ahmed stated that her friend's daughter helped her fill out the application but "did not read all of the questions." Even so, Ahmed agreed it was her responsibility to know that the answers on the application were accurate. Ahmed confirmed

that she started work with her employer on November 11 and claimed she tried calling L.R. on November 11 (Veteran's Day) to report the job, but no one answered the phone. Ahmed testified that she did not know what the offer letter said when she signed it and that she did not know her signature meant she accepted employment.

The HSJ issued an order on June 24, 2020, recommending that the commissioner affirm the county's "denial of [Ahmed's] application for cash benefits" and grant the county's "request for the disqualification of [Ahmed] from DWP and MFIP for one year" because Ahmed committed an intentional program violation.

On October 16, 2020, the Co-Chief HSJ notified the parties that she would depart from the HSJ's June 24 recommendation, and the parties submitted additional written arguments. On November 6, 2020, the Co-Chief HSJ, on behalf of the commissioner, granted the county's request to disqualify Ahmed from MFIP and DWP benefits for one year, reversed the county's denial of Ahmed's application for DWP benefits, and ordered the county to determine whether Ahmed meets all other DWP eligibility requirements.

Ahmed appealed to the district court, and the district court affirmed the commissioner's decision.

This appeal follows.

DECISION

Under the Minnesota Administrative Procedure Act (MAPA), we can affirm the commissioner's decision, remand for further proceedings, or reverse or modify the decision if Ahmed's substantial rights have been prejudiced because the decision exceeded "the statutory authority . . . of the agency" or is "unsupported by substantial evidence in view

of the entire record as submitted." Minn. Stat. § 14.69 (2020); *see Zahler v. Minn. Dep't of Hum. Servs.*, 624 N.W.2d 297, 301 (Minn. App. 2001) (holding that Minn. Stat. § 14.69 governs review of decisions issued under Minn. Stat. § 256.045), *rev. denied* (Minn. June 19, 2001).

"We independently review agency decisions without deferring to the rulings of lower courts." *In re Consolidated Hosp. Surcharge Appeals of Gillette Child.'s Specialty Healthcare*, 883 N.W.2d 778, 784-85 (Minn. 2016). Our review is "limited to the evidence in the record, and the decision is upheld if the administrative action has a legal basis demonstrated by substantial evidence." *Rostamkhani v. City of St. Paul*, 645 N.W.2d 479, 483 (Minn. App. 2002) (citing *Cable Commc'ns Bd. v. Nor-West Cable Commc'ns P'ship*, 356 N.W.2d 658, 668 (Minn. 1984)). Generally, "[a]dministrative agency decisions enjoy a presumption of correctness." *In re Appeal by RS Eden/Eden House*, 928 N.W.2d 326, 332 (Minn. 2019) (quotation omitted). "[W]e show 'substantial judicial deference to the fact-finding processes of the administrative agency.'" *Gillette*, 883 N.W.2d at 785 (quoting *Quinn Distrib. Co. v. Quast Transfer, Inc.*, 181 N.W.2d 696, 699 (Minn. 1970)).

Ahmed raises three issues on appeal: (1) whether the commissioner lacked statutory authority to issue a decision after the 90-day statutory period elapsed, (2) whether the commissioner's finding that Ahmed committed an intentional program violation is supported by the record evidence, and (3) whether the lack of a transcript from the evidentiary hearing deprived Ahmed of a fair opportunity for judicial review. We address each issue in turn.

I. The commissioner did not exceed her statutory authority by disqualifying Ahmed in a decision issued after the statutory deadline.

"Whether an administrative agency has acted within its statutory authority is a question of law that we review de novo." *In re Denial of Certification of the Variance Granted to Hubbard*, 778 N.W.2d 313, 318 (Minn. 2010). "The party seeking review on appeal has the burden of proving that the agency has exceeded its statutory authority." *In re Class A License Application of N. Metro Harness, Inc.*, 711 N.W.2d 129, 134 (Minn. App. 2006) (quoting *Lolling v. Midwest Patrol*, 545 N.W.2d 372, 375 (Minn. 1996)), *rev. denied* (Minn. June 20, 2006).

Ahmed argues that state and federal law impose deadlines for the commissioner's disqualification decision and that these statutory deadlines should be construed as mandatory. Because the commissioner's decision to disqualify Ahmed was issued after the statutory deadline, Ahmed argues the commissioner lacked authority to make the decision. The commissioner argues that the statutory deadlines are directory and that Ahmed was not substantially prejudiced by the delay.

This issue turns on statutory interpretation, which we review de novo. *Cocchiarella v. Driggs*, 884 N.W.2d 621, 624 (Minn. 2016). When interpreting a statute, we first examine whether the language is clear or ambiguous on its face. *Am. Fam. Ins. Grp. v. Schroedl*, 616 N.W.2d 273, 277 (Minn. 2000). If the words of a statute are clear in their application to the given situation, we apply the letter of the law. *Cocchiarella*, 884 N.W.2d at 624; Minn. Stat. § 645.16 (2020).

Ahmed relies on state law, which provides that "[a] written decision must be issued within 90 days of the date" the appeal is requested, and "[a]n additional 30 days is provided in those cases where the commissioner refuses to accept the recommended decision." Minn. Stat. § 256.0451, subd. 22(a) (2020). Ahmed also relies on a federal regulation, which states that "[w]ithin 90 days of the date the household member is notified in writing that a . . . [disqualification] hearing initiated by the State agency has been scheduled, the State agency shall conduct the hearing, arrive at a decision and notify the household member and local agency of the decision." 7 C.F.R. § 273.16(e)(2)(iv) (2020). Ahmed is correct that both the state statute and the federal regulation applied to her administrative proceedings because it was a combined appeal and administrative-disqualification hearing.

Both the statute and the regulation use "must" and "shall" when describing the deadline for the commissioner's decision. *See* Minn. Stat. § 645.44, subds. 15a ("'Must' is mandatory."), 16 ("'Shall' is mandatory.") (2020). But this language does not end our analysis. "While Minn. Stat. § 645.44(16) . . . defines 'shall' as mandatory, the statute declares only a rule of construction for the aid of, but not binding on the courts." *Szczech v. Comm'r of Pub. Safety*, 343 N.W.2d 305, 307 (Minn. App. 1984). Under well-settled caselaw, "the words 'shall' and 'must,' while suggestive of a mandatory meaning, are not always to be construed in a statute as being mandatory." *Wenger v. Wenger*, 274 N.W. 517, 519 (Minn. 1937).

The Minnesota Supreme Court, after concluding that other statutory deadlines are directory and not mandatory, has determined that directory deadlines do not circumscribe a decisionmaker's authority. In *Wenger*, the supreme court held that a statute was directory

and not mandatory even though the statute provided that the district court "shall" file a decision "within five months" of an issue being submitted. *Id.* at 518-19 (referencing Mason's Minn. Stat. § 9311 (1927), now codified as Minn. Stat. § 546.27, subd. 1(a) (2020)). The supreme court reasoned that the statute did not provide consequences if the district court failed to meet the deadline. *Id.* at 518-19. More recently, in *Hans Hagen Homes, Inc. v. City of Minnetrista*, the supreme court determined that the statute requiring the city to issue notice of denial within 60 days of receiving a zoning application was directory and not mandatory because the statute did not provide a consequence for missing the deadline. 728 N.W.2d 536, 541 (Minn. 2007) ("[O]ur case law recognizes that a statute may contain a requirement but provide no consequence for noncompliance, in which case we regard the statute as directory, not mandatory.") (interpreting Minn. Stat. § 15.99, subd. 2 (2004)).

Ahmed contends we should rely on *State by Beaulieu v. RSJ, Inc.*, 552 N.W.2d 695 (Minn. 1996). In *Beaulieu*, the supreme court declined to follow the reasoning it applied in *Wenger* and held that the statute providing that the Minnesota Department of Human Rights "shall" issue a probable-cause determination within twelve months of filing a discrimination complaint was mandatory, not directory, even though the statute provided no consequence for noncompliance. 552 N.W.2d at 701-02 (interpreting Minn. Stat. § 363.06, subd. 4 (1994)). The supreme court explained that statutory construction was unnecessary because the statute was clear and unambiguous. *Id.* In ruling for the appellant and dismissing the discrimination complaint, the supreme court emphasized that the

department's issuance of a probable-cause determination 35 months after the discrimination complaint's filing was "per se prejudicial." *Id.* at 703.

We are not persuaded that *Beaulieu* guides our analysis. The commissioner's delay in Ahmed's case was about 188 days, which is much shorter than the almost two-year delay in *Beaulieu*. Additionally, the supreme court in *Beaulieau* declined to describe the statutory deadline as a "jurisdictional bar," reasoning that it found "nothing" to support this view; instead, the supreme court stated the department's delay and resulting prejudice "raise[d] equitable defenses to be resolved by the ALJ." *Id.* at 702. Importantly, *Beaulieu* did not overrule *Wenger*, and Minnesota courts continue to follow *Wenger* when determining whether a statutory deadline is mandatory or directory.[1]

Ahmed also relies on a nonprecedential opinion, *Hernandez v. State, Dep't of Hum. Servs.*, No. A17-0639, 2017 WL 6418192 (Minn. App. Dec. 18, 2017). Nonprecedential opinions may be cited for persuasive value. Minn. R. Civ. App. P. 136.01, subd. 1(c). In *Hernandez*, we reversed the commissioner's determination that Hernandez maltreated two minors by neglect because the commissioner issued its decision after 24 months rather than the 90 days as provided in Minn. Stat. § 256.0451, subd. 22(a). 2017 WL 6418192, at *1.

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[1] *See Hans Hagen Homes*, 728 N.W.2d at 541-42 (declining to follow *Beaulieu* and determining Minn. Stat. § 15.99, subd. 2 (2004), was directory because it did not provide a consequence for noncompliance); *Riehm v. Comm'r of Pub. Safety*, 745 N.W.2d 869, 876 (Minn. App. 2008) (following *Wenger* and holding that the implied-consent statute—Minn. Stat. § 169A.53, subd. 3(a) (Supp. 2005)—was directory because it did not provide a consequence for noncompliance), *rev. denied* (Minn. May 20, 2008). Several nonprecedential opinions also follow *Wenger*. *See, e.g.*, *Scheffler v. 2008 Chevrolet Motor Vehicle*, No. A17-0478, 2018 WL 414313, at *3-4 (Minn. App. Jan. 16, 2018) (following *Wenger* and determining Minn. Stat. § 169A.63, subd. 9 (2016), was directory and not mandatory), *rev. denied* (Minn. Mar. 28, 2018).

Even though the commissioner was required to issue a decision within 90 days, the commissioner scheduled Hernandez's evidentiary hearing 120 days after her appeal request and issued a decision 16 months after the evidentiary hearing. *Id.* In reversing, we relied on the substantial prejudice to Hernandez, which was immediate, because she was disqualified from employment when the initial maltreatment determination was made, and she remained disqualified from employment for the entire time her case was pending. *Id.* at *3.

We are not persuaded by Ahmed's argument. While *Hernandez* considered the same 90-day deadline on which Ahmed relies here, *Hernandez* did not determine whether Minn. Stat. § 256.0451, subd. 22(a), is mandatory or directory. *Id.* Unlike Hernandez's hearing, Ahmed's hearing was timely. Most importantly, Ahmed was not prejudiced by the 188-day delay because she was eligible for benefits throughout the delay, unlike Hernandez, who was disqualified during the delay.

Based on *Wenger* and *Hans Hagen Homes*, we determine that Minn. Stat. § 256.0541, subd. 22(a), and 7 C.F.R § 273.16(e)(2)(iv) provide directory and not mandatory deadlines for two reasons.[2] First, neither the statute nor the regulation provides a consequence for noncompliance. *See Hans Hagen Homes*, 728 N.W.2d at 541; *Wenger*,

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[2] We assume, without deciding, that the directory-mandatory analysis applies to federal regulations. The parties do not brief this issue. We are willing, however, to make this assumption for two reasons. First, federal regulations are treated as a state agency's own regulation "when a state agency is charged with the day-to-day responsibility for enforcing and administering [the] regulation." *In re Cities of Annandale & Maple Lake NPDES/SDS Permit Issuance*, 731 N.W.2d 502, 513 (Minn. 2007). Second, appellate courts generally apply rules of statutory interpretation to agency regulations. *Id*. at 516-18.

274 N.W.2d at 519. Second, related provisions permit another 30 days to issue a decision when the commissioner refuses to accept the recommended decision. *See* Minn. Stat. § 256.0451, subd. 22(a) ("An additional 30 days is provided in those cases where the commissioner refuses to accept the recommended decision."); 7 C.F.R. § 273.16(e)(2)(iv) ("The household member or representative is entitled to a postponement of the scheduled hearing . . . . However, the hearing shall not be postponed for more than a total of 30 days."). The 30-day buffer underscores that the 90-day deadline is not mandatory and instead is directory.[3]

Even though the deadlines for issuing the commissioner's decision are directory, Ahmed may be entitled to relief if she can show she was prejudiced by the commissioner's delay. *See Riehm*, 745 N.W.2d at 876 ("If a statutory rule is directory, generally prejudice must be shown before the failure to comply with the rule potentially warrants relief."). Ahmed argues she was prejudiced by having to "endure[] an administrative proceeding accusing her of intentional fraud for many months longer than allowed." We disagree. Ahmed was not prejudiced because her evidentiary hearing was timely, she remained eligible for benefits throughout the delay, and she did not have to reimburse any of the benefits she received during the delay.

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[3] Ahmed also contends that Minn. Stat. § 256.0451, subd. 22(a), which permits the commissioner 30 more days to issue a decision, conflicts with the federal regulation and is therefore preempted by federal law. The county contends that we need not address Ahmed's contention because she failed to raise this issue before the HSJ or the district court. We agree with the county and decline to address the issue. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (holding that appellate courts generally will not consider matters not argued to and considered by the district court).

II. Substantial evidence supports the commissioner's disqualification decision.

Ahmed first argues about the legal standard we should apply during appellate review. Ahmed contends that because the county had to prove an intentional program violation by clear and convincing evidence, this court must determine whether the commissioner's findings are supported by clear and convincing evidence. Ahmed is correct in describing the standard the county had to satisfy before the HSJ. *See* 7 C.F.R. § 273.16(e)(6) (2020). We conclude, however, that our review of the commissioner's findings is for substantial evidence.

Under MAPA, we can reverse or modify an agency's determination if the findings, inferences, conclusions, or decisions are "unsupported by substantial evidence in view of the entire record as submitted," so our standard of review is the substantial-evidence standard. *See* Minn. Stat. § 14.69(e). Substantial evidence is (1) "[s]uch relevant evidence as a reasonable mind might accept as adequate to support a conclusion," (2) "[m]ore than a scintilla of evidence," (3) "[m]ore than some evidence," (4) "[m]ore than any evidence," and (5) "[e]vidence considered in its entirety." *Hazelton v. Comm'r of Dep't of Hum. Servs.*, 612 N.W.2d 468, 471 (Minn. App. 2000).

Under the substantial-evidence standard, we "evaluate the evidence relied upon by the agency in view of the entire record as submitted. If an administrative agency engages in reasoned decisionmaking, [this] court will affirm." *Cable Commc'ns Bd.*, 356 N.W.2d at 668-69 (citation omitted). We defer to the agency's determinations "regarding conflicts in testimony, the weight given to expert testimony, and the inferences to be drawn from

testimony." *Cannon v. Minneapolis Police Dep't*, 783 N.W.2d 182, 189 (Minn. App. 2010) (quotation omitted).

Ahmed next contends substantial evidence does not support the commissioner's finding that she committed an intentional program violation. An intentional program violation occurs when an applicant intentionally "[m]ade a false or misleading statement, or misrepresented, concealed or withheld facts." 7 C.F.R. § 273.16(c)(1) (2020). Ahmed points to evidence that she has limited English proficiency and that she misunderstood information given to her. We determine substantial evidence supports the commissioner's finding of an intentional program violation for four reasons.

First, Ahmed misrepresented her employment status on the application. The record shows Ahmed signed the offer letter from her employer on October 29, 2019, which was the same day she submitted the application stating that neither she nor anyone in her household expected to be employed.

Second, at the follow-up interview with L.R. on November 7, Ahmed failed to report her employment status. L.R. informed Ahmed of her reporting responsibilities during this interview, and Ahmed told L.R. she was unemployed and seeking employment.

Third, when L.R. called Ahmed on November 12 after receiving the employer's message about Ahmed, Ahmed persisted in her dishonesty. Ahmed gave L.R. her employment-offer letter but told L.R. "that she had orientation" with the employer "that same evening of November 12, 2019, but she was not sure what hours she would be working." Ahmed's statements were untrue. The offer letter showed Ahmed accepted employment on October 29—the same day she applied for benefits. The offer letter also

indicated Ahmed had orientation on November 11 and was scheduled to work over 40 hours per week after orientation. The employer confirmed that Ahmed attended orientation and worked her first shift on November 11, 2019.

Lastly, the record evidence supports the commissioner's finding that Ahmed intended to violate program requirements. Ahmed told the investigator that she knew she had to be truthful on the application and that "she understood that the job would affect how much she would receive in public benefits." During her testimony, Ahmed agreed it was her responsibility to know whether the application was accurate. Even though Ahmed was hired while her benefits application was pending and had many opportunities to disclose her employment, Ahmed continued to lie to L.R. and the investigator. Moreover, Ahmed is not a stranger to this process; she has received public assistance since 2015 and has previously interviewed for public assistance.

Despite Ahmed's testimony that she lacks proficiency in English and her claim that the application and employment-offer letter were not explained to her, the evidence shows that Ahmed knew she had to report changes in her employment status, and she failed to do so. We conclude that the commissioner engaged "in reasoned decision making" and that substantial evidence supports the commissioner's determination that Ahmed committed an intentional program violation. *See Cable Commc'ns Bd.*, 356 N.W.2d at 668-69.

III. The HSJ's failure to record the proceedings did not preclude appellate review.

Ahmed contends that the HSJ had the burden to ensure a recording was made of the evidentiary hearing. Because no recording exists, and this court lacks a transcript, Ahmed contends that judicial review is stymied and that she has been substantially prejudiced.

Ahmed relies on caselaw rejecting an appellant's challenge to the sufficiency of the evidence where a transcript is available but not prepared and filed with this court. *See Minneapolis Cmty. Dev. Agency v. Mark Lee Prods., Inc.*, 411 N.W.2d 599, 601 (Minn. App. 1987) ("When no transcript is available for review this court cannot review the sufficiency of the evidence."); *Fritz v. Fritz*, 390 N.W.2d 924, 925 (Minn. App. 1986) ("Meaningful review in this case is impossible without a transcript.").

Minn. Stat. § 256.0451, subd. 11 (2020), provides that HSJs "shall ensure that all communication and recording equipment that is necessary to conduct the hearing and to create an adequate record is present and functioning properly," and if the "equipment fails or ceases to operate effectively, the [HSJ] shall take any steps necessary, including stopping or adjourning the hearing, until the necessary equipment is present and functioning properly." The commissioner contends this statute is directory because it provides no consequence for noncompliance. We agree with the commissioner. The HSJ's failure to record the evidentiary hearing does not invalidate the commissioner's decision. *See Hans Hagen Homes*, 728 N.W.2d at 541 ("[O]ur case law recognizes that a statute may contain a requirement but provide no consequence for noncompliance, in which case we regard the statute as directory, not mandatory.").

Even so, we may reverse if Ahmed shows her substantial rights were prejudiced by the HSJ's failure to record the proceedings. *See* Minn. Stat. § 14.69; *N. Messenger, Inc. v. Airport Couriers, Inc.*, 359 N.W.2d 302, 305 (Minn. App. 1984) (stating an agency's decision that is made upon unlawful procedure mandates reversal only if a party's

substantial rights have been prejudiced). We are not persuaded that Ahmed's substantial rights were prejudiced for two reasons.

First, Ahmed could have supplemented the record by providing a statement of the proceedings. Under Minn. R. Civ. App. P. 110.03, when a transcript is unavailable, an appellant "may prepare a statement of the proceedings from the best available means, including recollection." Rule 110.03 applies to certiorari appeals like Ahmed's. Minn. R. Civ. App. P. 115.04, subd. 1 (incorporating rules 110 and 111 of the Minnesota Rules of Civil Appellate Procedure to appeals by certiorari). This statement "is not intended to be a complete re-creation of testimony or arguments." Minn. R. Civ. App. P. 110.03. An appellant prepares a statement, and the respondent may file amendments or objections. *Id.* Then, the district court approves or modifies the statement. *Id.* Once the district court has approved a statement, it becomes part of the record. *Id.* Other parties in administrative appeals, though not identically situated to Ahmed, have proceeded based on statements prepared under this rule. *See, e.g.*, *Bruski v. City of St. Paul Dep't of Safety & Inspections*, No. A09-900, 2010 WL 3543166, at *4 (Minn. App. Sept. 14, 2010); *Schultz v. Dakota Cnty. Cmty. Dev. Agency*, No. A03-1099, 2004 WL 2283586, at *2 (Minn. App. Oct. 12, 2004); *see also Deli v. Univ. of Minn.*, 511 N.W.2d 46, 51 (Minn. App. 1994) (noting that the appellate record without a transcript was "extensive, voluminous, and sufficient" for review and that appellants could have supplemented the record with a statement prepared under rule 110.03 if they believed testimony was missing), *rev. denied* (Minn. Mar. 23, 1994).

Second, Ahmed has not shown her substantial rights were prejudiced by the lack of a transcript. The HSJ made extensive factual findings in a 28-page order that summarized witness testimony. Ahmed does not allege these summaries are inaccurate, nor does Ahmed identify any testimony the HSJ omitted that could lead to a different conclusion on appeal. Thus, the HSJ's failure to record the proceedings did not deny Ahmed a fair opportunity for judicial review, and Ahmed's substantial rights were not prejudiced.

Affirmed.