

her home. Petitioner has a background in nursing and was his mother's caregiver. His mother had social security retirement income of \$1600 per month that was deposited into a bank account that petitioner accessed and controlled as his mother's power of attorney. He was also designated as his mother's "representative payee" for her social security income. After his mother entered the nursing home, she became eligible for long-term care Medicaid coverage with a monthly patient-share obligation to be paid to the nursing home. Failure to pay this amount may be grounds to evict the resident. His mother's patient share was \$871 beginning in June 2015 and \$1460 beginning in November 2015. The patient share supplements the money paid by Medicaid and includes a personal needs allowance for small personal necessities.

Petitioner made no payments of the patient share to the nursing home while his mother resided there, accumulating an arrearage of several thousands of dollars. Petitioner objected to paying the patient share on the basis that it was unfair, immoral, and irresponsible. He also asserted that he required the money to maintain his mother's home as his residence. Petitioner was dissatisfied with the care provided to his mother but did not seek to move her to a different location. Petitioner did not appeal the assessed patient-share amount.

In response to DAIL's investigation for financial abuse, petitioner did not contest the fact that he had not paid the patient share to the nursing home. Petitioner's own evidence demonstrated that he had used his mother's social security income to pay for home heating fuel, automobile repairs and insurance, food, household items, and other personal expenses. The Board concluded that petitioner was using his mother's funds for his sole benefit and that there was no evidence petitioner's mother authorized or directed him to purchase the items or services. Petitioner claimed that he acted in good faith and used the money to maintain the house in hope that his mother would return home. The Board concluded that it was immaterial whether petitioner hoped his mother would return home because the evidence was clear that petitioner used the money to benefit himself and not his mother. The Board concluded that petitioner's action exposed his mother to the risk of ejection from the facility and depleted funds that could have been used for her needs, and affirmed the substantiation. Petitioner appeals.

On appeal from the Board, "[o]ur review is . . . limited to determining whether the Board applied the proper legal standard, whether the evidence before the Board reasonably supports its findings, and whether the Board's findings reasonably support its conclusions." *In re E.C.*, 2010 VT 50, ¶ 6, 188 Vt. 546 (mem.). In this case, the question is whether the Board erred in finding that petitioner financially exploited his mother by "willfully using, withholding, transferring, or disposing of funds or property of a vulnerable adult without or in excess of legal authority for the wrongful profit or advantage of another." 33 V.S.A. § 6902(6)(A).

The Board's decision in this case is reasonably supported by the evidence. Petitioner does not dispute that he received his mother's social security income and did not pay his mother's patient share to the nursing home for his mother's care. Petitioner's own evidence showed that he instead used his mother's money for his own personal expenses and benefit, including for his food, automobile repairs and insurance, and heating fuel. There was no evidence that his mother authorized petitioner's action. As a result of petitioner's actions, his mother faced possible eviction from the facility and incurred a large debt in unpaid fees.

On appeal, petitioner raises deficiencies with the process before the Board. He contends that he did not have sufficient time to obtain witnesses before the July 2020 hearing. Petitioner proffers that he would have presented testimony from witnesses regarding his status as the representative payee for his mother's social security payments and as his mother's power of attorney.

Even accepting that petitioner's argument is preserved, petitioner fails to show how any of the proffered testimony would impact the substantiation decision. The fact that petitioner was designated as his mother's representative payee for her social security benefit did not provide him with authority to use his mother's money however he wished. Similarly, the fact that petitioner had power of attorney did not license him to use his mother's funds for his benefit. As power of attorney, petitioner was obligated, among other things, to act in his mother's interest, refrain from self-dealing, and avoid any conflicts of interest. See 14 V.S.A. § 3505(a). By using his mother's funds for his own benefit, instead of for her care, he acted outside the scope of his authority.

Petitioner's final argument is that he could not afford the patient share because he needed to maintain his mother's home for her possible return and that he was otherwise acting in good faith. As explained by the Board, petitioner's good faith and hope that his mother would return to her home do not alter the fact that he used his mother's money to benefit himself and not his mother.

Affirmed.

BY THE COURT:

Harold E. Eaton, Jr., Associate Justice

Karen R. Carroll, Associate Justice

William D. Cohen, Associate Justice