

Circuit Court for Worcester County  
Case No. C-23-CV-21-000135

UNREPORTED\*

IN THE APPELLATE COURT

OF MARYLAND

No. 1763

September Term, 2022

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IN THE MATTER OF CAROL WALLACE

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Berger,  
Shaw,  
Eyler, James R.  
(Senior Judge, Specially Assigned)

JJ.

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Opinion by Shaw, J.

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Filed: January 3, 2024

\*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

This is an appeal from the Circuit Court for Worcester County. In 2020, the Worcester County Department of Social Services found Carol Wallace responsible for child neglect with mental injury to her fourteen-year-old daughter, M.A.<sup>1</sup> Ms. Wallace contested the finding, and a hearing was held before an administrative law judge (“ALJ”) in the Maryland Office of Administrative Hearings. The ALJ affirmed the Department’s finding and Ms. Wallace then filed an action for judicial review in the Circuit Court for Worcester County. Following a hearing, the circuit court affirmed the ALJ’s decision. Ms. Wallace timely noted her appeal.

She presents two questions for our review<sup>2</sup>:

1. Did the ALJ err in admitting into evidence the two written purported mental injury assessments offered by the Department and considering them as a basis for affirming its finding that Wallace was responsible for indicated child neglect with mental injury?
2. Did the ALJ err in concluding that the Department had established by a preponderance of the evidence that its finding of indicated child neglect with mental injury was supported by credible evidence where neither mental injury assessment offered by the Department explained the manner in which any act or omission by Wallace caused M.A.’s mental injury?

For the following reasons, we affirm the decision of the ALJ.

### **BACKGROUND**

On May 24, 2020, fourteen-year-old M.A. was at the home of her biological mother, Ms. Wallace, and her cousin, Oliver Razmara-Compton (“Mr. R.C.”) was visiting. At some point in the evening, Ms. Wallace discovered that M.A. had been communicating

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<sup>1</sup> For purposes of confidentiality, Ms. Wallace’s daughter will be referred to as “M.A.”

<sup>2</sup> Ms. Wallace’s questions have been reordered for clarity.

online with an adult male in the United Kingdom, and she became upset with M.A. Ms. Wallace confronted M.A. and began calling her names, accused her of planning to run away, and told M.A. she would not be lied to. M.A. was visibly distraught and went to her bedroom. Approximately fifteen minutes later, Ms. Wallace called to M.A. and received no response. Mr. R.C. went upstairs to check on M.A., knocked on her bedroom door and received no response. Mr. R.C. then opened the door and found M.A. lying in her bed bleeding from her neck. She had stabbed herself with a fourteen-inch kitchen knife, cutting her trachea and creating a four-inch laceration to her neck. M.A. had also ingested bleach and made cuts to her arms and stomach. Mr. R.C. yelled to Ms. Wallace to call 911, but he then called 911 himself. M.A. was transported to Atlantic General Hospital, where her injuries were found to be severe. M.A. was then flown to Johns Hopkins Hospital (“JHH”) in the early hours of May 25, 2020. A responding police officer reported that Ms. Wallace said “this is all my fault. We were fighting over her phone.”

M.A. was admitted to the Pediatric Intensive Care Unit after emergency surgery on her trachea. She received a tracheostomy, which prevented her from speaking. After the tracheostomy was removed, her doctor, Dr. Jadhav, reported that M.A. divulged to him that she made the suicide attempt to escape her mother’s abuse. On June 4, 2020, M.A. was transferred from the Pediatric Intensive Care Unit to the adolescent inpatient psychiatric unit.

On June 8, 2020, Kimberly Linton, a social worker for the Worcester County Department of Social Services, Child Protective Services Unit (“CPS”), was assigned to investigate a report of suspected child neglect with mental injury based on statements made

by M.A. while she was a patient at JHH. A Baltimore-based safety worker, Antonia Austin, conducted an initial interview with M.A. on June 9, 2020. The next day, on June 10, 2020, a Family Involvement Meeting was held to plan for M.A.’s discharge with Ms. Linton, CPS supervisor Ms. Dawn Blades, a JHH social worker, a facilitator, Ms. Wallace, and Dr. Jadhav. During the meeting, Ms. Wallace stated that she could not care for M.A. at home, and instead wanted her to be placed inpatient at a psychiatric facility. Dr. Jadhav and the JHH treatment team did not recommend further inpatient treatment, but instead recommended community discharge with intensive outpatient treatment that would link M.A. to a therapist and psychiatrist. When Ms. Wallace’s mother, Ms. Barbara Wallace (“Grandmother”), was asked if M.A. could reside with her after discharge, she reported that Ms. Wallace had threatened her, stating she would burn down Grandmother’s home with her and M.A. in it, if Grandmother took custody of M.A.

M.A. was discharged on June 17, 2020, and her final diagnoses included: generalized anxiety disorder, attention deficit hyperactivity disorder (“ADHD”), social phobia unspecified, major depressive disorder single episode unspecified, parent-biological child conflict, laceration without foreign body of trachea, tracheostomy, other long-term (current) drug therapy, allergy status, and intentional self-harm by knife, initial encounter. The JHH Discharge summary authored by Dr. Marcos A. Grados stated, among other things, that M.A.’s “symptoms seem to be reactive to trauma and stress from ongoing alleged physical and verbal abuse from her mother.” Dr. Grados further stated that M.A. had “recently developed symptoms suggestive of depressive disorder, though not

consistent with [major depressive disorder]. These symptoms seem to be reactive to trauma and stress from ongoing physical and verbal abuse from her mother.”

Upon discharge, M.A. was placed with her biological father. When Ms. Wallace found out, she called M.A. directly and said, “what are you going to do, go have sex with your father on the couch morning, noon and night?” M.A. cried and called Grandmother to report how Ms. Wallace upset her. Ms. Wallace then called Grandmother and said “the little w[\*\*\*\*] want[ed] to go home with her father and have sex with him.” Ms. Wallace’s allegations had no basis in fact.

On August 21, 2020, the Department notified Ms. Wallace that she had been found responsible for child neglect with mental injury to M.A. The Department informed her that her name would be entered into its centralized confidential database that contains information regarding child abuse and neglect investigations. The findings were based on Ms. Wallace’s ongoing verbal and physical abuse of M.A., and Ms. Wallace’s isolation of M.A. from family support. The investigation concluded that M.A.’s reports of verbal and physical neglect had been substantiated by interviews with family members.

Pursuant to Family Law Article Section 5-706, on October 21, 2020, Ms. Wallace requested a contested case hearing to appeal the Department’s finding. A hearing was held on June 15, 2021, in the Maryland Office of Administrative Hearings before an ALJ. Ms. Wallace did not attend the hearing but was represented by counsel.

The Department offered into evidence the Department’s record in its entirety, and it was admitted without objection. The Department then called three witnesses to testify: Mr. R.C., Grandmother, and Ms. Linton. Mr. R.C. testified first, recounting the events of

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M.A.’s suicide attempt. He stated that “[Ms. Wallace] called [M.A.] a w[\*\*\*\*], hit [M.A.] in the face, saying that [M.A.]’s a liar and that [Ms. Wallace] won’t be lied to.” Mr. R.C. further testified that he was “trying to talk [Ms. Wallace] down because she seemed unhinged. It was scary. I genuinely feared for [M.A.] and my. . . safety because of just how unhinged and angry [Ms. Wallace] was.”

The Department then called Grandmother, who testified that she had witnessed Ms. Wallace physically and verbally abuse [M.A.] for many years:

DEPARTMENT’S COUNSEL: Okay. So, you said that around seven years old -- when [M.A.] was around seven years old is when you started seeing verbal aggression from [Ms. Wallace]?

GRANDMOTHER: Yeah. Yes.

DEPARTMENT’S COUNSEL: When did you start seeing physical aggression against [M.A.]?

GRANDMOTHER: She was -- maybe about nine.

DEPARTMENT’S COUNSEL: When [M.A.] was nine?

GRANDMOTHER: Yes.

DEPARTMENT’S COUNSEL: Okay. And what kind of physical aggression would you see?

GRANDMOTHER: [M.A.] would tell me that her mom would slap her or grab her or shove her and then I started noticing odd bruises. I noticed a handprint on [M.A.]’s face. There was one time when [Ms. Wallace] told me that she had hit [M.A.] and then felt really bad.

Grandmother continued her testimony, stating that she had observed Ms. Wallace call M.A. names from a young age:

GRANDMOTHER: She – basically, she would call [M.A.] a w[\*\*\*\*].

DEPARTMENT’S COUNSEL: How old was [M.A.] when [Ms. Wallace] started calling [M.A.] a w[\*\*\*\*]?

GRANDMOTHER: When I noticed it, she was about nine-ish.

Grandmother also testified that M.A. had intermittently been treated by mental healthcare providers throughout her life.

Ms. Linton testified next and was offered as an expert in child neglect investigations. As of the date of the hearing, Ms. Linton had worked for the Department since 2014, and had been a Child Protective Services Investigator since 2016. Ms. Linton was a Licensed Master of Social Work at the time of the investigation, and later received her clinical licensure, making her a Licensed Certified Social Worker – Clinical (LCSW-C). Ms. Linton has conducted over 500 child neglect investigations and has testified at approximately fifty court hearings. Ms. Wallace objected to Ms. Linton’s admission as an expert in child neglect investigations because she had not testified previously as an expert in mental injury. The administrative judge overruled her objection and found her “qualified by virtue of her education, experience and training in the area of child neglect investigation, so I will accept her [as] an expert.”

Ms. Linton testified regarding her mental injury assessment of M.A., which specified that Ms. Wallace had verbally denigrated M.A. and isolated M.A. from the rest of her family and any potential friends. Ms. Wallace objected to Ms. Linton’s testimony, and argued that COMAR, Department of Human Resources, the Social Services Administration, Section 07.02.07.08 prohibited Ms. Linton, as the caseworker, from being

one of the mental injury assessors. The objection was overruled, and Ms. Linton continued her testimony as to her mental injury assessment. She also testified regarding the JHH discharge summary, which the Department used as the second mental injury assessment. Ms. Linton testified that the physicians who assessed M.A. had treated her over the course of her stay in the adolescent inpatient psychiatric ward. The hospital sent Ms. Linton the discharge summary in response to her request for their mental injury assessment of M.A. Ms. Wallace did not testify or call any witnesses.

The OAH hearing concluded on June 15, 2021, and the ALJ issued a written decision on July 20, 2021. The ALJ concluded that “the evidence is overwhelming that by constantly denigrating the Child the Appellant failed to give the Child proper care and attention. Her failure to provide emotional support and parental nurturance constitutes child neglect under section 5-701(s) of the Family Law Article and . . . resulted in mental injury.” In regard to the mental injury assessment, the ALJ found that both Dr. Grados’ assessment and Ms. Linton’s assessment “include[d] the contents required by COMAR 07.02.07.08C(3)(b)(i) and (ii).”

In affirming the Department’s determination, the ALJ held:

[T]he local department has established by a preponderance of the evidence that the finding of indicated child neglect with mental injury is supported by credible evidence and is consistent with the law. I further conclude as matter of law that the local department has established by a preponderance of the evidence that the Appellant is an individual responsible for indicated child neglect. I further conclude, as matter of law, that the local department may identify the Appellant in the centralized confidential database as an individual responsible for indicated child neglect.

Ms. Wallace timely filed an action for judicial review to the Circuit Court of Worcester County. On May 31, 2022, a hearing was held, and following oral arguments, the matter was taken under advisement. The court issued its ruling on November 10, 2022, affirming the decision of the ALJ. The court found that:

- 1) Ms. Linton’s Mental Injury Assessment did not constitute an improper vouching opinion;
- 2) The medical records from JHH were admissible;
- 3) The discharge summary from Johns Hopkins was admissible as a second Mental Injury Assessment;
- 4) Ms. Linton was properly allowed to submit a Mental Injury Assessment under COMAR 07.02.07.08C(3);
- 5) Ms. Linton’s Mental Injury Assessment was not impermissibly based on her personal knowledge of the investigation; and
- 6) Petitioner has not shown by clear and satisfactory evidence that there is illegality or unreasonableness in the ALJ’s decision.

Ms. Wallace timely appealed.

### **STANDARD OF REVIEW**

This Court’s review “looks through” the circuit court’s decision and “evaluate[s] the decision of the agency.” *Frey v. Comptroller of Treasury*, 422 Md. 111, 136-37 (2011); *Dept. of Health v. Campbell*, 364 Md. 108, 123 (2001) (noting that it is the final decision at the administrative level, not the decision of the previously reviewing court, which is the focus of each level of judicial review).

With regard to an agency’s factual determinations, the standard of review is whether the finding is “supported by competent, material, and substantial evidence in light of the

entire record as submitted,” also known as substantial evidence review. *See Charles County Department of Social Services v. Vann*, 382 Md. 286 (2004). Under the substantial evidence standard, a reviewing court is limited to ascertaining whether a reasoning mind could have reached the same factual conclusions as the agency on the record before it. *Id.*

In examining agency legal conclusions, this Court accords some deference to an agency’s legal interpretation of the statute it administers or its own regulations. *McClanahan v. Washington Cnty. Dept. of Soc. Services*, 445 Md. 691, 700 (2015) (quoting *Taylor v. Harford Cnty. Dep’t of Soc. Servs.*, 384 Md. 213, 221 (2004)). The Court decides the correctness of the agency’s conclusions and may substitute its judgment for that of the agency’s. *Total Audio–Visual Systems, Inc. v. Dept. of Labor*, 360 Md. 387, 394 (2000).

## DISCUSSION

### I. Legal Framework

In Maryland, child neglect investigations are governed by the Maryland Code and the Code of Maryland Regulations. The investigations are carried out by the Department of Human Services (“DHS”).

Child neglect is defined by Maryland law as:

[T]he leaving of a child unattended or other failure to give proper care and attention to a child by any parent or other person who has permanent or temporary care or custody or responsibility for supervision of the child under circumstances that indicate:

- (1) that the child’s health or welfare is harmed or placed at substantial risk of harm; or
- (2) mental injury to the child or a substantial risk of mental injury.

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Md. Code Ann., Fam. Law § 5-701(s). After receiving a report of suspected neglect of a child who lives in Maryland, the local department is required to promptly “make a thorough investigation of a report of suspected abuse or neglect to protect the health, safety, and welfare of the child or children.” Md. Code Ann., Fam. Law § 5-706(b). If mental injury is suspected, the investigation must include “an assessment by two of the following: (i) a licensed physician, as defined in § 14-101 of the Health Occupations Article; (ii) a licensed psychologist, as defined in § 18-101 of the Health Occupations Article; (iii) a licensed social worker, as defined in § 19-101 of the Health Occupations Article; or (iv) a clinical professional counselor licensed under Title 17 of the Health Occupations Article.” Md. Code Ann., Fam. Law § 5-706(d)(2).

As defined in the Maryland Code, “mental injury” means “the observable, identifiable, and substantial impairment of a child’s mental or psychological ability to function caused by an intentional act or series of acts, regardless of whether there was an intent to harm the child.” Md. Code Ann., Fam. Law § 5-701(r). DHS regulations, as set forth in COMAR 07.02.07.08, state:

C. Abuse and Neglect -- Mental Injury.

- (1) Within 5 days of receiving a report of alleged child abuse or neglect involving mental injury, a local department shall follow the procedures under § A of this regulation.
- (2) Finding of Mental Injury.
  - (a) If during an investigation of child abuse or neglect, CPS finds evidence that a child’s emotional or psychological welfare may have been harmed, CPS shall consider whether the child has sustained a mental injury.

- (b) Behavior that may be relevant to a finding of mental injury includes but is not limited to:
  - (i) Implied or overt threats of death or serious injury made to a child or in a child’s presence;
  - (ii) Implied or overt threats made in a child’s presence to intentionally harm an animal;
  - (iii) Constant denigration of a child;
  - (iv) Extensive emotional or physical isolation or confinement of a child;
  - (v) Extreme antagonistic behavior by one or both parents toward the other parent; or
  - (vi) Unnecessary and unwarranted medical diagnosis or treatment of a child.

(3) Professional Assessments -- Mental Injury.

- (a) If a worker suspects mental injury, the worker shall promptly obtain an assessment by any two of the following:
  - (i) A licensed physician, as defined in Health Occupations Article, § 14-101, Annotated Code of Maryland;
  - (ii) A licensed psychologist, as defined in Health Occupations Article, § 18-101, Annotated Code of Maryland; and
  - (iii) A licensed social worker, as defined in Health Occupations Article, § 19-101, Annotated Code of Maryland, including a licensed social worker employed by any local department.
- (b) If a professional assessor concludes that the child has sustained a mental injury, the local department shall request a written assessment that includes:

- (i) A description of an observable, identifiable, and substantial impairment of the child’s mental or psychological ability to function; and
  - (ii) An explanation of the act, series of acts, or omission that is believed to have caused the mental injury regardless of whether there was an intent to harm the child.
- (c) In conducting the investigation and making a finding, the local department shall consider professional assessments in addition to other information gathered during the investigation.

(4) Mental Injury -- Categorized.

- (a) Mental injury caused by an act to a child is child abuse; and
- (b) Mental injury caused by an omission or other failure to provide proper care or attention to a child is child neglect.

COMAR 07.02.07.08. This section of regulation complements F.L. § 5-706, reiterating the need for professional evaluations of suspected mental injury.

F.L. § 5–707(a) authorizes DHR to “provide by regulation” “conditions for determining” whether abuse “is indicated, ruled out, or unsubstantiated.” COMAR 07.02.07.12 sets forth the following elements for indicated child neglect regarding neglect with and without mental injury:

A. Indicated Child Neglect.

- (1) Neglect with No Mental Injury. Except as provided in § A(2) of this regulation, the local department may make a finding of indicated child neglect when there is credible evidence, which has not been satisfactorily refuted, that the following four elements were present during the alleged neglect:
  - (a) A failure to provide proper care and attention;

- (b) A child victim;
  - (c) A parent or caregiver of the alleged victim responsible for the alleged neglect; and
  - (d) Circumstances including the nature, extent, or cause of the alleged neglect indicating that the alleged victim’s health or welfare was harmed or was at substantial risk of harm.
- (2) Neglect -- Mental Injury. The local department may make a finding of indicated child neglect with mental injury if there is credible evidence, which has not been satisfactorily refuted, that the following four elements were present during the alleged neglect with mental injury:
- (a) A mental injury caused by a failure to provide proper care and attention regardless of whether there was an intent to harm the child and characterized by an observable, identifiable, substantial impairment to the child’s mental or psychological ability to function, which may be shown by the need for specific psychiatric, psychological, or social work intervention;
  - (b) A victim who was a child;
  - (c) A parent or caregiver of the alleged victim responsible for the alleged child neglect with mental injury; and
  - (d) Circumstances including the nature and extent of the failure to provide proper care and attention indicating that the child’s health or welfare was harmed or was at substantial risk of harm.

COMAR 07.02.07.12.

A finding of “indicated” means “that there is credible evidence, which has not been satisfactorily refuted, that . . . neglect . . . did occur.” Md. Code Ann., Fam. Law § 5-701(m). A finding of unsubstantiated means “that there is an insufficient amount of evidence to support finding of indicated or ruled out.” Md. Code Ann., Fam. Law § 5-

701(aa). A finding of ruled out means “that neglect did not occur.” Md. Code Ann., Fam. Law § 5-701(w). Upon a finding of “indicated” child neglect, the local department may enter the name of the person responsible for neglect into the centralized DHS confidential database. Md. Code Ann., Fam. Law § 5-714(d)(2); COMAR 07.02.07.10; COMAR 07.02.26.14C.

**II. The ALJ did not err in admitting the two mental injury assessments into evidence against Wallace and in relying upon them.**

Ms. Wallace argues the ALJ erred in admitting into evidence the two written mental injury assessments offered by the Department and in considering them as a basis for affirming the Department’s finding of neglect. Ms. Wallace argues the mental injury assessment produced by Ms. Linton was inadmissible for two reasons: (1) Ms. Linton’s expert conclusions were impermissibly based on her personal knowledge of the investigation; and (2) it constituted an improper vouching opinion. Ms. Wallace also argues the mental injury assessment produced by JHH was inadmissible for two reasons: (1) Ms. Wallace was afforded no opportunity for cross-examination concerning its contents; and (2) it was based on unreliable hearsay.

As an initial matter, we must determine whether Ms. Wallace properly preserved the issue of the admissibility of the mental injury assessments. Ordinarily, an appellate court will not review issues presented to it for the first time on judicial review and that are not encompassed in the final decision of the administrative agency. Md. Rule 8-131. In order to preserve an admissibility issue for appeal, the appellant must have objected to the

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documents’ admissibility in the administrative hearing. *Id.*; *See Zakwieia v. Baltimore County Bd of Educ.*, 231 Md. App. 644, 649-50 (2017).

We observe, based on our review of the record, that the Department’s record or case file, which consisted of ninety-nine pages of exhibits was admitted without objection:

DEPARTMENT’S COUNSEL: Thank you, Your Honor. Truthfully, I can’t remember if Mr. Lukas and I have talked about it previously. I would ask that they just be admitted as the Department’s record. If he prefers to go through it, we can do so. But I would just ask that it be admitted.

MS. WALLACE’S COUNSEL: *No objection* (emphasis added).

ALJ: So, Mr. Lukas, what’s your position, Mr. Lukas?

MS. WALLACE’S COUNSEL: *No objection* (emphasis added).

ALJ: All right. Thank you. I think that expedites -- and I’m not pressuring anyone to do that. If you wanted to, you could go through every page separately, but I appreciate --

MS. WALLACE’S COUNSEL: Your Honor, I don’t feel pressured. And like I said, I think this is a legally based argument, so --

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ALJ: All right. All right, so, *without objection* (emphasis added), I’m admitting -- I guess I’ll admit it as Local Department Exhibit 1, but it’s subdivided but it’s basically there’s the index, which is page 1, and then it goes through -- the total packet is 99 pages. So, I’m admitting Pages 1 through 99, which I’ll identify for the record as Local Department 1, and I’m going to put my sticker on it right now, and then I’ll call [Grandmother].

Because the admissibility of the mental injury assessments was not raised before the ALJ, we decline to address this issue on appeal. *See Pulte Home Corp. v. Parex, Inc.*, 174 Md. App. 681, 760-61 (2007), *aff'd*, 403 Md. 367 (2008).

Assuming, arguendo, that the issue of admissibility was preserved, Ms. Linton’s mental injury assessment was, nevertheless, admissible. There is simply no language in the governing statute, code or caselaw that states that a caseworker’s personal knowledge of an investigation precludes them from authoring a mental injury assessment. *See* F.L. § 5-706; COMAR 07.02.07.08C(3). In regard to improper vouching, it appears that Appellant has conflated Ms. Linton’s expert testimony in the court room with the mental injury assessment. Appellant points to *Bohnert v. State*, a case in which the Supreme Court of Maryland held that a social worker’s expert opinion was inadmissible because it was “tantamount to a declaration by her that the child was telling the truth and that Bohnert was lying.” 312 Md. 266, 278 (1988).

This case is readily distinguishable from *Bohnert*, as Ms. Linton based her conclusions on the information she gathered from medical records, police reports, and interviews with relatives. *Id.* All evidence gathered, aside from the denials of Ms. Wallace, indicated that M.A. was neglected by Ms. Wallace. Ms. Linton’s notes, report, and testimony make clear that her opinion was based on the cumulative evidence, and was not just a decision to “believe the damning aspects of the child’s statement.” *Montgomery Cty. Dep’t of Health & Hum. Servs. v. P. F.*, 137 Md. App. 243, 265-71 (2001). At no point did Ms. Linton vouch for M.A.’s credibility, and thus, the fact-finding role was properly left to the ALJ.

Turning to the JHH mental injury assessment, in addition to allowing the documents to come into evidence without objection, Ms. Wallace failed to raise the issue that she was not afforded the opportunity for cross-examination concerning the contents of the medical records at the administrative hearing. Appellant’s counsel repeatedly questioned the sufficiency of the information within the assessment but did not argue that Dr. Grados’ testimony was required. Similarly, Appellant’s counsel never raised a hearsay objection. Because neither argument was raised before the administrative agency, we decline to address them on appeal. *See Zakwieia v. Baltimore County Bd of Educ.*, 231 Md. App. 644, 649-50 (2017) (citing *Motor Vehicle Admin. v. Shea*, 415 Md. 1, 15 (2010) (“[A] court ordinarily may not pass upon issues presented to it for the first time on judicial review and that are not encompassed in the final decision of the administrative agency.”)) (internal quotation omitted). In sum, the mental injury assessments were properly admitted into evidence.

We observe that “the administrative law judge has a fact finding role” in a contested proceeding to determine the validity of a local department’s disposition. *See C.S. v. Prince George’s County Dept. of Soc. Svcs.*, 343 Md. 14, 33 (1996). “‘In its assessment of the credibility of witnesses,’ a factfinder is ‘entitled to accept—or reject—all, part, or none of the testimony of any witness, whether that testimony was or was not contradicted or corroborated by any other evidence.’” *Grimm v. State*, 447 Md. 482, 505-06 (2016) (quoting *Omayaka v. Omayaka*, 417 Md. 643, 659 (2011)). *See also Simms v. State*, 39 Md. App. 658, 673 (“‘The . . . proposition that judges are [persons] of discernment, learned and experienced in the law and capable of evaluating the materiality of evidence, lies at the

very core of our judicial system.”) (quoting *State v. Babb*, 258 Md. 547, 550 (1970)), *cert. denied*, 283 Md. 738 (1978). The refusal of an ALJ to consider competent evidence that is material to the merits of a child neglect allegation would constitute error. *See Dep’t of Human Res. v. Thompson*, 103 Md. App. 175, 202 (1995) (holding the ALJ’s failure to consider all evidence was “erroneous, arbitrary, and capricious”).

Here, the ALJ had the discretion to give the admitted mental injury assessments and additional evidence, the weight he felt they deserved. *Grimm*, 447 Md. at 505-06 (quoting *Jones v. State*, 343 Md. 448, 460 (1996) (“A fact-finder ‘decides which evidence to accept and which to reject.’”)). The ALJ found Ms. Linton’s testimony, her assessment, and the JHH assessment credible. Additionally, the ALJ found Ms. Linton’s testimony was consistent with her report and the testimony of the Department’s other witnesses, Grandmother and Mr. R.C. The witnesses also corroborated the JHH assessment. As such, we hold that the record here fully supports the findings made by the ALJ. It is clear that there was no error in the admission of the assessments nor in the ALJ’s reliance on them in making his decision.

**III. The ALJ did not err in concluding that the Department had established by a preponderance of the evidence its finding of indicated child neglect with mental injury.**

Ms. Wallace argues the ALJ erred in affirming the Department’s finding because the Department failed to prove by substantial evidence the causal connection between M.A.’s suicide attempt and Ms. Wallace. According to Ms. Wallace, the ALJ accepted Ms. Linton’s report and the JHH discharge summary, however, they do not meet the requirements of COMAR 07.02.07.08C(3). Ms. Wallace contends both assessments lack

“an explanation of the act, series of acts, or omission that is believed to have caused the mental injury[.]”

If a CPS worker suspects mental injury of a child, they are required to promptly obtain an assessment by any two of the following: “(i) [a] licensed physician, as defined in Health Occupations Article, § 14-101, Annotated Code of Maryland; (ii) [a] licensed psychologist, as defined in Health Occupations Article, § 18-101, Annotated Code of Maryland; and (iii) [a] licensed social worker, as defined in Health Occupations Article, § 19-101, Annotated Code of Maryland, including a licensed social worker employed by any local department.” COMAR 07.02.07.08C(3)(a). If an assessor concludes that the child has sustained a mental injury, the local department is required to request a written assessment that includes: “(i) [a] description of an observable, identifiable, and substantial impairment of the child’s mental or psychological ability to function; and (ii) [a]n explanation of the act, series of acts, or omission that is believed to have caused the mental injury regardless of whether there was an intent to harm the child.” COMAR 07.02.07.08C(3)(b). In evaluating the evidence at a hearing, the ALJ sifts “between potentially conflicting information provided by [the local department] and the alleged abuser to determine whether there are sufficient facts to meet the definitions of” indicated or unsubstantiated neglect. *See C.S. v. Prince George’s County Dept. of Soc. Svcs.*, 343 Md. 14, 33 (1996).

Starting with Ms. Linton’s mental injury assessment, we conclude that the ALJ properly found that the requirements of COMAR 07.02.07.08C(3) had been met. First, Ms. Linton, a licensed Master of Social Work who had been with the Department for six

years at the time of the investigation, met the qualifications of a licensed social worker under Health Occupations § 19-101. Contrary to Ms. Wallace’s argument, there is no prohibition against the CPS worker investigating the alleged mental injury also being the same worker who authors the mental injury assessment; COMAR 07.02.07.08C(3)(a) simply requires the worker be qualified.

In accordance with COMAR 07.02.07.08C(3)(b), Ms. Linton’s assessment included a description of the mental injury. A mental injury is “characterized by an observable, identifiable, substantial impairment to the child’s mental or psychological ability to function, which may be shown by the need for specific psychiatric, psychological, or social work intervention[.]” COMAR 07.02.07.12A(2). M.A.’s suicide attempt was an observable, identifiable, and substantial impairment to the child’s mental and psychological ability to function, which was demonstrated by the need for specific psychiatric intervention. Appellant repeatedly points to the lack of a “mental injury” in Ms. Linton’s report, ignoring the obvious – the suicide attempt itself was a mental injury to the child, causing M.A. to be hospitalized for multiple weeks.

As for causation, Ms. Linton’s assessment set forth the mental and verbal abuse perpetrated by Ms. Wallace as articulated by each witness she interviewed, including M.A.’s father, grandmother, half-sisters, cousin, and grandmother’s partner. Ms. Wallace relies on *Bohnert v. State*, in which the court made it clear that child abuse cannot be proved by an expert’s testimony when the expert’s opinion was “founded only upon what the child said had occurred.” 312 Md. 266, 276 (1988). The case at hand can be easily distinguished from *Bohnert*, as Ms. Linton’s report included statements from Grandmother,

Grandmother's partner, and Mr. R.C. as eyewitnesses to Ms. Wallace's verbal and physical abuse of M.A. Mr. R.C.'s corroboration of the events leading up to M.A.'s suicide attempt further solidified the temporal connection between the verbal and physical abuse perpetrated by Ms. Wallace and M.A.'s suicide attempt in response. As such, we find the ALJ did not err in finding that Ms. Linton's report satisfied the COMAR requirements for a mental injury assessment.

Next, we turn to the JHH discharge summary, which the Department produced as the second mental injury assessment required under COMAR 07.02.07.08C(3)(b). The second assessment was authored by Dr. Grados, M.A.'s admitting and attending psychiatrist for the duration of her two-week hospitalization at JHH. Dr. Grados met the qualifications of a licensed psychiatrist under Health Occupations § 14-101. M.A.'s mental injury is described on page four of the discharge summary: "M[A.] . . . was admitted after a suicide attempt via self-inflicted tracheal laceration."

In the next paragraph, Dr. Grados articulates what he believes the cause of M.A.'s injury to be: "[t]he symptoms seem to be reactive to trauma and stress from ongoing alleged physical and verbal abuse from her mother." Dr. Grado repeats this sentence on page twenty-two of the discharge summary, under the "Formulation and Assessment" section. Given the qualifications of the assessment author, the mental injury to the child, and the explanation of causation, a reasonable mind could reach the same decision as the ALJ. The COMAR regulations, further, do not require a specific format for reporting. In conclusion, the ALJ did not err in the admission of evidence or in its finding of neglect with mental injury.

**JUDGMENT OF THE CIRCUIT COURT  
FOR WORCESTER COUNTY AFFIRMED;  
COSTS TO BE PAID BY APPELLANT.**