

Pinales-Salas is a native and citizen of Mexico who entered the United States without inspection on or about August 11, 2002. At the time, Pinales-Salas was only 13 or 14 years old.

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From the very beginning of his arrival in the United States, Pinales-Salas worked to support his family, including his mother who had cancer. After working at a handful of short-term jobs, Pinales-Salas was hired by Mulholland Farm as a horse groomer in Lexington, Kentucky. With several years of dedication, Pinales-Salas worked his way up to Farm Manager.

While in Lexington, Pinales-Salas reunited with a former girlfriend, Norma Rodarte-Martinez. Although they never married, the two have been together for over ten years and have raised two children—Christian Pinales and Andrew Pinales. Together, the family of four lives on Mulholland Farm as a benefit of Pinales-Salas’ employment. While Pinales-Salas is not the biological father of Christian, he raised the boy from infancy to his current teenage years, and the family has no contact with the biological father. Rodarte-Martinez gave birth to the couple’s younger son, Andrew, in 2015. Pinales-Salas is Andrew’s biological father.

In 2014, the Department of Homeland Security initiated removal proceedings against Pinales-Salas by serving him with a notice to appear. During his initial hearing on June 6, 2016, Pinales-Salas conceded the allegations in the charge of removal and indicated that he would be seeking cancellation of removal through his attorney. Pinales-Salas then appeared at an individual merits hearing on February 12, 2019 to address his application for cancellation of removal.

B. Procedural History

1. Individual Merits Hearing

During his individual merits hearing, Pinales-Salas described his background and job history. He also highlighted his long-term relationship with Rodarte-Martinez and their joint roles in raising their two children. At the time of the hearing, Christian was 12 years old, and Andrew was 3.

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Pinales-Salas explained that, although he is not Christian's biological father, he added his last name to Christian's birth certificate when Christian began to ask questions about why his last name did not match Pinales-Salas'. To do so, Pinales-Salas admitted that he signed a declaration of paternity in accordance with Kentucky law procedures, which required him to affirm that he was the "natural father" of Christian. *See* Ky. Rev. Stat. Ann. § 213.046. However, the couple never formally adopted Christian, believing that their declarations were sufficient to legally establish Pinales-Salas' status as father.

To describe the hardship that his sons would face if he were removed from the United States, Pinales-Salas testified about Christian's recent struggles with his health and demeanor. Due to the impending removal proceedings, Christian began to suffer from depression, continually asking questions about whether Pinales-Salas would have to leave the country. Eventually, Christian started attending therapy sessions. Pinales-Salas testified that Christian also suffers from severe allergies and asthma. Due to Christian's heightened need for care, Rodarte-Martinez quit working to support his demanding doctors' visit schedule.

Pinales-Salas also testified that his biological son, Andrew, has faced various speech impediments. Andrew has struggled with his expressive language skills, speaking very few words compared to similarly-aged children. Due to his delayed speech development, Andrew attends speech therapy once a week for 45 minutes. Pinales-Salas recalled that the therapist recommended continuing these sessions for 60-70 months.

Based on his children's medical and developmental needs, Pinales-Salas testified that he could not give his children the same future and opportunity in Mexico and therefore wanted them to remain in the United States. He worried about being able to pay for healthcare in Mexico and supporting his family financially. Additionally, Pinales-Salas explained that he would be leaving

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his mother behind in the United States, who suffered from cancer and had a pacemaker. Pinales-Salas also supported his 18-year-old brother by helping with his car insurance and serving as a father figure. Finally, Pinales-Salas testified to the role that he plays within his established community, particularly in his church and his children's soccer teams. He testified that friends and co-workers have relied on him, looking to him for mentorship and leadership.

After hearing from Pinales-Salas, the IJ heard testimony from his employer on Mulholland Farms, Martha Jayne Mulholland. Mulholland described her family's farm, which cares for approximately 300 horses and employs 17 people. For the past several years, Mulholland's son and Pinales-Salas managed and oversaw the farm. To explain her perception of Pinales-Salas' character, Mulholland testified that he was a leader, an exemplary partner and father, and a hard, dependable worker. Specifically, Mulholland described Pinales-Salas as "known in the community as someone you can depend on and go to," highlighting his generous mentorship and care that he provides to people on the farm. Tr. Merits Hr'g, A.R. 000171.

Finally, Pinales-Salas' partner, Rodarte-Martinez, shed additional light on the potential hardships that she and her sons would face if Pinales-Salas were ordered removed. She further explained Christian's healthcare schedule, which required attending therapy sessions and going to the doctor's office several times each week. In addition, Rodarte-Martinez affirmed that Andrew had a speech impediment, noting that he had been placed in weekly speech therapy sessions. Rodarte-Martinez testified that, without Pinales-Salas in the United States, she could not financially support her children. Therefore, contrary to Pinales-Salas' earlier testimony, she stated that they would have to move to Mexico with him. She expressed her concerns that the conditions in Mexico would not parallel those in the United States, as they could not afford healthcare in Mexico.

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2. Immigration Judge's Decision

On May 28, 2019, the IJ issued a decision finding Pinales-Salas statutorily ineligible for the cancellation of removal. Evaluating the four requirements for discretionary removal, the IJ found that Pinales-Salas met the first three. The IJ found that Pinales-Salas was continuously present in the United States for ten years preceding the date of his application and was a person of good moral character throughout his time in the country. Further, the IJ concluded that Pinales-Salas had no criminal convictions that would statutorily bar relief. Accordingly, the decision hinged upon Pinales-Salas' failure to meet the last prong of its analysis: exceptional and extremely unusual hardship to qualifying relatives.

The IJ concluded that he could only consider Andrew as a qualifying relative because Pinales-Salas was not Christian's biological father, and Christian was therefore not legitimated under Kentucky law. As for Andrew, the decision held that the hardship he would face "is not uncommon with similarly situated children faced with the prospect of a parent's removal." Decision and Orders of IJ, A.R. 000030. Although there will likely be some impact on Andrew's standard of living and healthcare, the IJ determined that such an impact is not "substantially beyond" what would normally be expected. *Id.* Accordingly, the IJ ordered Pinales-Salas to be removed and granted him the opportunity to depart the United States voluntarily.

3. Board of Immigration Appeals Decision

Following the IJ's denial of his application for cancellation, Pinales-Salas appealed to the BIA. By adopting and affirming the IJ's decision in its totality, the BIA dismissed his appeal. Because Christian is not Pinales-Salas' biological son, the BIA affirmed that he was not a qualifying relative for purposes of removal. As for Pinales-Salas' qualifying relative, Andrew, the BIA concluded that the evidence did not show that Andrew's speech therapy and educational needs

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would be unmet in Mexico. The BIA further noted that “since his son is a citizen of the United States, he may return to this country later to pursue economic and educational opportunities.” BIA Decision, A.R. 000004. Ultimately, the BIA affirmed the IJ’s determination that Pinales-Salas did “not establish[] exceptional and extremely unusual hardship to [his] qualifying relative.” *Id.* This timely petition for review followed.

II. DISCUSSION

A. Qualifying Relative Determination Under 8 U.S.C. § 1101(b)(1)(C)

1. Standard of Review

“This Court has jurisdiction to review a final order of removal from the BIA pursuant to 8 U.S.C. § 1252.” *Marikasi v. Lynch*, 840 F.3d 281, 286 (6th Cir. 2016). Under § 1252(a)(2)(D), this Court may review constitutional claims or questions of law underlying the BIA’s holding *de novo*. *Abdurakhmanov v. Holder*, 735 F.3d 341, 345 (6th Cir. 2012) (citing *Khalili v. Holder*, 557 F.3d 429, 435 (6th Cir. 2009)). This Court, however, lacks jurisdiction to review facts found in relation to Pinales-Salas’ cancellation of removal application. *See Njai v. Garland*, No. 21-3764, 2022 WL 2903443, at *2 (6th Cir. July 22, 2022) (citing *Patel v. Garland*, 596 U.S. 328, 331 (2022)). Where, as in this case, the BIA reviews the IJ’s decision and fully adopts its reasoning, this Court reviews both the BIA’s decision and the IJ’s decision as the final agency determination. *Tantchev v. Garland*, 46 F.4th 431, 434 (6th Cir. 2022) (citing *Sanchez-Robles v. Lynch*, 808 F.3d 688, 691–92 (6th Cir. 2015)).

2. Analysis

In order to be eligible for the discretionary cancellation of his removal, Pinales-Salas must meet four requirements delineated in the Immigration and Nationality Act (“INA”): (A) he must have been “physically present in the United States for a continuous period of not less than 10

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years”; (B) he must have been “a person of good moral character during such period”; (C) he must have no convictions “under section 1182(a)(2), 1227(a)(2), or 1227(a)(3)” of the INA; and (D) he must establish “that removal would result in exceptional and extremely unusual hardship to the alien’s spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.” 8 U.S.C. § 1229b(b)(1).

When an applicant meets these four requirements, the IJ may exercise the discretion delegated to him by the Attorney General to cancel the alien’s removal, eventually issuing a green card and establishing lawful permanent residence. *See* 8 C.F.R. §§ 1003.1, 1003.10 (delegating the duties of the Attorney General under the INA to IJs and the BIA). In this case, the IJ determined, and the BIA agreed, that Pinales-Salas met the first three requirements. Therefore, the IJ’s ultimate determination turned upon subsection (D)—whether a qualifying relative would face exceptional and extremely unusual hardship if Pinales-Salas were ordered removed to Mexico.

Pinales-Salas pointed to two potentially qualifying relatives, his two sons, Christian and Andrew. His biological son, Andrew, was born in the United States and easily qualified under subsection (D); however, as discussed, the IJ determined that Andrew would not face extremely unusual hardship due to his father’s removal to Mexico. In contrast, whether Christian could validly be considered a qualifying relative under the statute presented a more difficult question. Because Christian is not biologically related to Pinales-Salas, and because Pinales-Salas and Rodarte-Martinez never officially married, the IJ had to decide whether Pinales-Salas’ *de facto* paternal relationship with Christian qualified under the statute.

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According to the statutory scheme, the immigrant’s “child[ren]” are one possible category of qualifying relatives. 8 U.S.C. § 1229b(b)(1)(D). And the INA defines “child” as an unmarried person under twenty-one years of age who is:

- (A) a child born in wedlock;
- (B) a stepchild, whether or not born out of wedlock, provided the child had not reached the age of eighteen years at the time the marriage creating the status of stepchild occurred;
- (C) a child legitimated under the law of the child’s residence or domicile, or under the law of the father’s residence or domicile, whether in or outside the United States, if such legitimation takes place before the child reaches the age of eighteen years and the child is in the legal custody of the legitimating parent or parents at the time of such legitimation;
- (D) a child born out of wedlock, by, through whom, or on whose behalf a status, privilege, or benefit is sought by virtue of the relationship of the child to its natural mother or to its natural father if the father has or had a bona fide parent-child relationship with the person;
- (E) (i) a child adopted while under the age of sixteen years if the child has been in the legal custody of, and has resided with, the adopting parent or parents for at least two years

8 U.S.C. § 1101(b)(1)(A)–(E)(i). Pinales-Salas concedes that only subsection (C) could be applicable to Christian and that the applicable domicile is Kentucky.

The crux of the issue on appeal is therefore whether Pinales-Salas’ identification of himself as the father on Christian’s Kentucky birth certificate “legitimated” Christian as his child. To argue that he successfully legitimated Christian, Pinales-Salas points to Christian’s birth certificate and emphasizes that he served as “the custodian of Christian at the time this occurred.” Pet’r’s Br., ECF No. 8, 12. During the immigration proceedings, the IJ and the BIA disagreed with Pinales-Salas, relying on prior BIA interpretations of the term “legitimation” to hold that the immigrant must be the natural father to legitimate his child. *See* Decision and Orders of IJ, A.R. 000029 (citing *In re Bueno-Almonte*, 21 I. & N. Dec. 1029, 1031–32 (BIA 1997)); *see also Dorado v. Gonzales*, 202 F. App’x 898, 901 (6th Cir. 2006) (evaluating the term “child” in the INA and

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noting that the “definition does not include a non-biological, non-adopted boy”). On appeal, Respondent adds that, even taking Kentucky law into consideration, Christian has not been legitimated. See *J.R.A. v. G.D.A.*, 314 S.W.3d 764, 768 (Ky. Ct. App. 2010) (holding that “the only method by which a step-parent may acquire the legal status of parent with a biological child of his spouse is through adoption”). Because Kentucky law is dispositive in rejecting Pinales-Salas’ arguments on appeal, we need not rely upon the BIA’s interpretation of “legitimation” under § 1101(b)(1)(C).¹

Under Kentucky law, when a birth occurs in a hospital to a woman who is unmarried, no father is written on the birth certificate. Ky. Rev. Stat. Ann. § 213.046. However, the mother and the alleged father can fill out notarized declarations to assert the natural father’s paternity, in which case the father’s name will be added to the birth certificate. *Id.* After Christian began to wonder about his mismatched last name, Pinales-Salas and Rodarte-Martinez filled out the appropriate documents to declare his paternity and changed Christian’s last name to Pinales. This addition of Pinales-Salas’ name on Christian’s birth certificate created a rebuttable presumption of paternity under Ky. Rev. Stat. Ann. § 406.021(4).

However, Pinales-Salas admitted in his immigration proceedings that he misrepresented that he was the “natural father” of Christian in his declaration. Therefore, even though Pinales-

¹ Some of our sister circuits have analyzed similar issues by employing the *Chevron* doctrine and deferring to the BIA’s holding that the term “legitimation” under § 1101(b)(1)(C) requires the father to be the biological father. See, e.g., *Schreiber v. Cuccinelli*, 981 F.3d 766, 772–73 (10th Cir. 2020) (relying upon *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984) to hold that the BIA properly ruled that an immigrant’s child was not “legitimated” because she was not his biological child); *id.* at 790–94 (Baldock, J., concurring in part). Under the facts of the instant case, however, we need not analyze whether to defer to the BIA’s interpretation under *Chevron* because Kentucky law provides a definitive answer.

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Salas presumptively established his paternity status under § 406.021, the government can point to his misrepresentation that he was Christian’s “natural” or biological father to rebut this presumption. See *J.R.A.*, 314 S.W.3d at 768 (finding that although appellant signed a declaration of paternity, “both parties admitted that appellant was not [the child’s] biological father, [so] the presumption of paternity was clearly rebutted”). In *J.R.A.*, the Kentucky Court of Appeals stated that, “the only method by which a step-parent may acquire the legal status of parent with a biological child of his spouse is through adoption.” *Id.* Neither party claims that Pinales-Salas formally adopted Christian.

Accordingly, the presumption of paternity does not apply to Pinales-Salas in this case. Looking to other potential legitimation methods supported by state law, Kentucky is one of the few states that has applied the concept of equitable estoppel to custody actions and child support cases. This doctrine allows a court to declare that a man who is not the biological father of a child is nonetheless the child’s legal father. See, e.g., *S.R.D. v. T.L.B.*, 174 S.W.3d 502, 506–08 (Ky. Ct. App. 2005). Using this doctrine, Kentucky courts have estopped a purported parent “from challenging paternity where that person has by his or her conduct accepted a given person as father of the child.” *Hinshaw v. Hinshaw*, 237 S.W.3d 170, 174 (Ky. 2007) (citation omitted). Although Pinales-Salas may have been able to use this doctrine to establish his paternity in a hypothetical dispute with Rodarte-Martinez, Kentucky courts have declined to extend the doctrine to estop third parties (such as, in this case, the BIA) from interfering with the parental relationship.

For example, in *Ipock v. Ipock*, a father wished to remain the legal father of his child, despite the Commonwealth’s efforts to exclude him from custodial consideration. 403 S.W.3d 580, 588 (Ky. Ct. App. 2013). Although the father in *Ipock* was not the natural father of his daughter, he “ha[d] always held himself out as her father.” *Id.* Therefore, he argued that the

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doctrine should be extended to allow him to retain custody of his child; in other words, “instead of himself being estopped from disclaiming his paternity,” the Cabinet for Health and Family Services should be estopped from challenging his paternity. *Id.* The Kentucky court disagreed—based on the fundamental differences between cases in which a one parent relied on another’s parental representations to their detriment, and those in which a purported father seeks to estop a *third party*, who has not acted in reliance on any party’s representations, from interference, the *Ipock* court declined to extend the doctrine to cases where a non-biological father “is entitled to estop other parties from excluding him as [the] father.” *Id.* at 589.

Therefore, Pinales-Salas cannot rely upon Christian’s birth certificate alone, as the presumption of paternity is “clearly rebutted” when a person claiming paternity is not the natural father of the child and submitted an inaccurate declaration of paternity. *J.R.A.*, 314 S.W.3d at 768. Further, under the facts of the instant case, Kentucky law does not support nevertheless affording Pinales-Salas with legal rights based on his *de facto* fatherhood status.² *See, e.g., Ipock*, 403

² In addition to the inapplicability of parental estoppel in this case, Kentucky’s “*de facto* custodian” statute, Ky. Rev. Stat. Ann. § 403.270, also does not apply to Pinales-Salas’ relationship with Christian. Kentucky has interpreted the law to apply solely to those custodians that raise the child *without* the support of one of the biological parents. *See, e.g., Kingcade v. Sherwood*, No. 2019-CA-1711-MR, 2020 WL 6818440, at *4 (Ky. Ct. App. Nov. 20, 2020) (noting that “in order to be a *de facto* custodian, the nonparent must not simply be a primary caregiver, but must, in fact, be *the* primary caregiver”); *Mullins v. Picklesimer*, 317 S.W.3d 569, 574 (Ky. 2010) (“[P]arenting the child alongside the natural parent does not meet the *de facto* custodian standard.”). Because Pinales-Salas raised Christian with Rodarte-Martinez, Christian’s biological mother, he cannot be considered Christian’s “*de facto* custodian.” *See Boone v. Ballinger*, 228 S.W.3d 1, 8 (Ky. Ct. App. 2007) (denying *de facto* custodian status as a matter of law where step-father parented alongside biological mother). Although there are certain exceptions to this general rule, meeting an exception merely confers the non-biological parent with standing—not necessarily parentage rights. *See, e.g., Mullins*, 317 S.W.3d at 574–77 (holding that non-biological parent of child conceived through artificial insemination, but who cared for the child from birth, had standing to seek custody of the child). Therefore, to the extent the status of “*de facto*

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S.W.3d at 589. Even though Pinales-Salas undoubtedly serves the imperative role of father within Christian’s life, based on Kentucky law, Christian has not been “legitimated under the law of [his] residence or domicile.” 8 U.S.C. § 1101(b)(1)(C). Without meeting one of the definitions contained in § 1101(b)(1), Christian cannot serve as a qualifying relative for purposes of Pinales-Salas’ application for cancellation of removal.

B. Hardship Determination Under 8 U.S.C. § 1229b(b)(1)(D)

1. Standard of Review

We review the BIA’s ultimate hardship conclusion using a “deferential” standard of review. *Singh v. Rosen*, 984 F.3d 1142, 1154 (6th Cir. 2021) (citing *Guerrero-Lasprilla v. Barr*, 589 U.S. 221, 228 (2020)). The BIA’s determination of whether a qualifying relative would face extreme and unusual hardship is a “mixed question about whether the facts found by the immigration judge rise to the level of hardship required by the legal test.” *Id.* at 1150; *see also* *Wilkinson v. Garland*, 144 S. Ct. 780, 2024 WL 1160995, at *5 (2024) (holding that “the application of the exceptional and extremely unusual hardship standard to a given set of facts is reviewable as a question of law under § 1252(a)(2)(D)”). Although we may review the BIA’s ultimate hardship conclusion, this Court may not review the factual findings underlying it. *Singh*, 984 F.3d at 1154; *see also* *Patel*, 596 U.S. at 331.

Despite *Singh*’s guidance, this Court has yet to choose the exact “deferential” standard of review for the hardship determination. However, like in *Singh*, regardless of the specific standard applied in this case, the BIA correctly found that Pinales-Salas failed to establish the unusual hardship requirement. *See Singh*, 984 F.3d at 1154; *Guzman Herrera v. Garland*, No. 22-3985,

custodian” could “legitimate” Christian, this argument nonetheless fails under the facts of this case.

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2023 WL 3414447, at *3 (6th Cir. May 12, 2023) (“We again decline to decide that question, because Guzman Herrera’s claim fails regardless of which standard we apply.”). Thus, we similarly decline to decide the proper standard of review applicable to a hardship determination.

2. Hardship Determination

To demonstrate hardship under 8 U.S.C. § 1229b(b), an applicant is required to “provide evidence of harm to his spouse, parent, or child *substantially* beyond that which ordinarily would be expected to result from the alien’s deportation.” *Araujo-Padilla v. Garland*, 854 F. App’x 646, 649 (6th Cir. 2021) (quoting *In re Monreal-Aguinaga*, 23 I. & N. Dec. 56, 59 (BIA 2001)). This determination requires aggregating the qualifying relatives’ hardship factors, including their “ages, health, and circumstances.” *Monreal-Aguinaga*, 23 I. & N. Dec. at 63–64. For example, cancellation of removal may be appropriate where a young child has “very serious health issues” or “compelling special needs in school.” *Id.* at 63. In the instant case, the BIA affirmed the IJ’s holding that Pinales-Salas’ younger child, Andrew, was a qualifying relative under § 1229b(b)(1)(D). However, the IJ determined that “[w]hile there may be an adverse impact to Andrew’s standard of living and diminished quality of health care and education, the [c]ourt cannot find that this hardship rises to that ‘substantially beyond’ what would be expected with an alien parent’s removal.” Decision and Orders of IJ, A.R. 000030 (quoting *Monreal-Aguinaga*, 23 I. & N. Dec. at 59).

On appeal, Pinales-Salas contends that the IJ applied an inappropriately high legal standard by requiring him to show that his deportation would be “unconscionable.” Pet’r’s Br., ECF No. 8, 13. While recognizing that adverse country conditions in Mexico alone will generally be insufficient to support a finding of hardship, Pinales-Salas argues that Andrew’s speech therapy needs illustrated the extreme and unusual circumstance necessary to support the cancellation of

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his removal. Without providing any citation to the record, Pinales-Salas states that “Andrew would not be able to continue with his speech therapy in Mexico[,] and this would result in Andrew not being able to function in basic society . . . [or] function as a normal adult in human society.” *Id.* at 14.

Unfortunately, Pinales-Salas did not present any testimony or evidence supporting this averment to the IJ. Indeed, as the BIA noted, “[t]he Immigration Judge appropriately considered the respondent’s son’s speech issues, but the record evidence does not show that any necessary treatment would be unavailable to him in Mexico.” BIA Decision, A.R. 000004. Although Pinales-Salas and Rodarte-Martinez testified about Andrew’s need for speech therapy, neither represented that continued speech therapy would be unavailable in Mexico. *See* Tr. Merits Hr’g, A.R. 000190 (explaining that healthcare for Christian and Andrew in Mexico would be more expensive and likely one to two hours from the town in which they would live); *cf. Seepaul v. Att’y Gen.*, 592 F. App’x 96, 100 (3d Cir. 2014) (“[Petitioner] failed to offer evidence with his motion to reopen . . . to show that [his child’s] hearing and speech needs cannot be met in Trinidad.”); *Ramirez v. Garland*, No. 22-2039, 2023 WL 4418227, at *2 (4th Cir. July 10, 2023) (“[Petitioner] failed to show that adequate medical care would not be reasonably available in Mexico.”).

Additionally, the record does not conclusively establish whether Pinales-Salas’ family would remain in the United States or move to Mexico with him. To the extent that Andrew remained in Lexington, he would remain under Rodarte-Martinez’s care and “may remain eligible for Passport health benefits.” Decision and Orders of IJ, A.R. 000030; *see also In re J-J-G*, 27 I. & N. Dec. 808, 813 (BIA 2020) (finding no unusual hardship where, if children stayed in the United States, they could continue medical treatment, and if they moved to Guatemala, treatment may be available there).

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Contrary to Pinales-Salas’ arguments, the IJ did not require him to prove that his removal would be unconscionable—instead, the judge carefully weighed each potential hardship that Andrew would face and held that, in the aggregate, these hardships were not “substantially beyond that which would ordinarily result from an alien’s removal.” Decision and Orders of IJ, A.R. 000030. Therefore, the BIA did not err in finding that Pinales-Salas did not meet the “onerous” burden of showing that Andrew would suffer “exceptional and extremely unusual hardship” due to Pinales-Salas’ removal from the United States. *Valdez-Arriaga v. Barr*, 778 F. App’x 380, 383 (6th Cir. 2019). Further underscoring this conclusion, Pinales-Salas fails to cite to any case in which the Sixth Circuit or the BIA has found extremely unusual hardship in similar circumstances. *Cf. Seepaul*, 592 F. App’x at 100 (affirming IJ where no evidence showed there would be a lack of speech therapy in removal county); *In re Cruz Castellanos*, 2004 WL 2375119, at *1 (BIA Sept. 23, 2004) (“The new evidence showing that the respondent’s child receives speech therapy does not create a likelihood that the respondent would be able to establish the necessary degree of hardship; there is no evidence to prove that speech services are unavailable in Mexico.”); *In re Francisco Valencia Chavez*, 2004 WL 2374781, at *2 (BIA Aug. 6, 2004) (finding no extremely unusual hardship where young child had a speech impediment). Affording the IJ and the BIA the proper discretion in accordance with *Singh*, we cannot set aside the IJ’s decision that Pinales-Salas is ineligible for cancellation of removal. 984 F.3d at 1154.

III. CONCLUSION

For the reasons set forth above, we **DENY** the petition for review and **AFFIRM** the BIA’s decision.