

Topic 11: Confirming Denial of Critical Care

Link to [Policy](#)

It is important to separate issues of poverty from neglect when assessing allegations of denial of critical care. When the caregiver is financially unable to provide for the child's needs, the provision of or referral to community resources and services may resolve the situation.

Denial of critical care consists of several categories that address the basic needs of a child and the acts or omissions of the caretaker that deny that child these basic needs.

The subcategories of denial of critical care follow, with factors that must be present for a finding that denial of critical care has occurred for each category. For allegations of denial of critical care, gather and document credible evidence that the following factors are present for the subcategory of denial of critical care.

When there is more than one category that applies to an incident of denial of critical care, make a finding for each.

Failure to Provide Adequate Food

- Factor 1:** The victim is a **child**.
- Factor 2:** The person responsible for the abuse was a **caretaker** for the child at the time of the abuse.
- Factor 3:** The caretaker has **failed to provide for adequate food** and nutrition. Examples of credible evidence include:
- ◆ A statement from a credible person regarding the amount, frequency of provision, or nutritional content of the child's food intake, or
 - ◆ Evidence that the child has been ingesting spoiled or otherwise inedible or dangerous food items.
- Factor 4:** The child was placed in **danger of suffering injury or death**.

An example of credible evidence is a diagnosis by a medical practitioner that the child has been placed in danger of suffering injury or death due to nutritional deficiencies in the child's diet or due to ingestion of potentially dangerous food items.

Factor 5: The caretaker was **financially able** to provide for the child's critical care needs, or refused to do so when offered financial and other reasonable means.

Examples of credible evidence include documentation of income or resources made available to the caretaker when the child's critical care needs were discovered.

Failure to Provide Adequate Shelter

Factor 1: The victim is a **child**.

Factor 2: The person responsible for the abuse was a **caretaker** for the child at the time of the abuse.

Factor 3: The caretaker has **failed to provide for adequate shelter**.
Examples of credible evidence include:

- ◆ Statements regarding:
 - Inadequate provisions for sanitation or physical safety of children,
 - Lack of necessary utilities for normal household activities or protection from the elements, or
 - Environmental hazards present in the home.
- ◆ Observation by the protective worker or another credible person that conditions existing at the family's place of residence are such that they would have to have been accumulating over time, rather than existing due to a crisis or disaster situation.

Factor 4: The child was placed in **danger of suffering injury or death**.
Examples of credible evidence include:

- ◆ Statement by a medical practitioner that:
 - The child as placed in danger of suffering injury or death as a result of exposure to hazardous or unsanitary conditions present in the physical environment where the child is living,
OR
 - These conditions are likely to create such a condition or injury.

- ◆ Observation and documentation by photograph or videotape of conditions present in the physical environment where the child is living that a reasonable and prudent person would (or should) know would be hazardous to the child's health or physical safety.
- ◆ Statement from the county department of sanitation or the fire marshal that the residence has been declared unfit for human habitation.
- ◆ Documentation of weather conditions that created a hazardous environment for the child, given the inadequacies of the child's shelter, such as a family living in below-zero weather with no heat.

Factor 5: The caretaker was **financially able** to provide for the child's critical care needs or refused to do so when offered financial and other reasonable means.

Credible evidence may include documentation of income or resources made available to the caretaker when the child's critical care needs were discovered.

Note: Consider the condition of the shelter that endangers the child in light of the child's age, medical condition, mental and physical maturity, and functioning level.

Failure to Provide Adequate Clothing

Factor 1: The victim is a **child**.

Factor 2: The person responsible for the abuse was a **caretaker** for the child at the time of the abuse.

Factor 3: The caretaker has **failed to provide for adequate clothing**.
Examples of credible evidence include:

- ◆ Observation and documentation by a credible person of the child's manner of dress indicating that the clothing provided was not adequate to meet the child's needs.
- ◆ Documentation of weather records that confirm weather conditions from which the child's manner of dress would not protect the child adequately.

Factor 4: The child was placed in **danger of suffering injury or death**.

Credible evidence may include a statement by a medical practitioner that the child was placed in danger of suffering injury or death, due to the caretaker's failure to provide adequate clothing.

Factor 5: The caretaker was **financially able** to provide for the child's critical care needs, or refused to do so when offered financial and other reasonable means.

Credible evidence may include documentation of income or resources made available to the caretaker when the child's critical care needs were discovered.

Failure to Provide Adequate Health Care

Factor 1: The victim is a **child**.

Factor 2: The person responsible for the abuse was a **caretaker** for the child at the time of the abuse.

Factor 3: The caretaker has **failed to provide for adequate health care**.
Credible evidence may include:

- ◆ Statement by a medical practitioner that the recommendation was made for treatment of the child and that the caretaker failed to follow through with this treatment (unless the caretaker was following a contradictory recommendation from another practitioner at the time).
- ◆ Statement that the child had an ongoing (not emergency) condition or illness which a reasonable and prudent person would have known, or should have known, could be remedied by treatment, which was not provided, and the child's condition worsened.

Factor 4: The child was placed in **danger of suffering injury or death**.

Credible evidence may include a statement by a medical practitioner that the child was placed in danger of suffering injury or death, due to the caretaker's failure to provide or arrange for health care for the child.

Factor 5: The failure to provide medical treatment is **not based upon the religious beliefs** of the parent or guardian. Credible evidence may include:

- ◆ Statement from the parent or guardian or other knowledgeable person that the parent or guardian did not follow religious beliefs or teachings or advice from a spiritual advisor in making the decision not to seek medical treatment for the child.
- ◆ Statements of people who are aware that the parent or guardian has never been a follower of the religious belief before the onset of the child's illness or condition.
- ◆ Statement of the parent or guardian's pastor, priest, rabbi, or other spiritual advisor, regarding this person's knowledge or approval of the religious beliefs of the parent or guardian regarding provision of traditional medical treatment for physical conditions or illness.

(See [Withholding Medical Care Due to Religious Beliefs](#).)

Factor 6: The caretaker was **financially able** to provide for the child's critical care needs, or refused to do so when offered financial and other reasonable means.

Credible evidence may include documentation of income or resources made available to the parent or guardian when the child's critical care needs were discovered.

Failure to Provide Mental Health Care

Factor 1: The victim is a **child**.

Factor 2: The person responsible for the abuse was a **caretaker** for the child at the time of the abuse.

Factor 3: The **caretaker knew or should reasonably have known** of the child's observable and substantial impairment in the ability to function. Examples of credible evidence include:

- ◆ Documentation that the caretaker:
 - Was informed that the child suffered from an observable and substantial impairment (or a condition which a reasonable and prudent person would identify as an observable and substantial impairment) and
 - Failed to follow through on a recommendation to obtain mental health care for the problem.
- ◆ Statement of the caretaker that in spite of being made aware of the child's observable and substantial impairment, the caretaker did not seek mental health care for the child, and did not intend to do so in the future. (Document the caretaker's reasoning, if possible.)

Factor 4: The caretaker has **failed to provide for mental health care** necessary to adequately treat the observable and substantial impairment in the ability to function. Examples of credible evidence include:

- ◆ Statement from school staff or another professional showing that a recommendation for a mental health evaluation was made as a result of documentation of the child's behavior, statements, or appearance that indicated an observable and substantial impairment.
- ◆ Diagnosis from a mental health professional of a psychological condition or syndrome that would be considered by a reasonable and prudent person to be an example of observable and substantial impairment.

Factor 5: The caretaker was **financially able** to provide for the child's critical care needs, or refused to do so when offered financial and other reasonable means.

Credible evidence may include documentation of income or resources made available to the caretaker when the child's critical care needs were discovered.

Gross Failure to Meet Emotional Needs

Factor 1: The victim is a **child**.

Factor 2: The person responsible for the abuse was a **caretaker** for the child at the time of the abuse.

Factor 3: The caretaker has shown a **gross failure to meet emotional needs** necessary for normal development of the child. Examples of credible evidence include:

- ◆ Statement from a physician or mental health professional that documents a psychological or physical condition that can be shown to be a direct result of the caretaker's failure to meet the child's emotional needs.
- ◆ Observation by the child protection worker or other professional that:
 - The caretaker does not appear to be interacting with the child in an appropriately nurturing fashion; or
 - There is a significant lack of "bonding" or "attachment" between the caretaker and the child; or
 - The caretaker ignores the child; or
 - The caretaker singles the child out for verbal insults, name-calling, or other demeaning or dehumanizing treatment.

Factor 4: The caretaker knew or should reasonably have known of the child's observable and substantial impairment in the ability to function within the normal range of performance and behavior. Examples of credible evidence include:

- ◆ Statement from the caretaker or professionals that the child is developmentally delayed.
- ◆ Observation by the child protection worker or other professionals involved with the child that the child's appearance and behavior are indicative of substantial impairment (either significant emotional or physical delays), considering the child's age and apparent health.

Factor 5: The caretaker was **financially able** to provide for the child's critical care needs, or refused to do so when offered financial and other reasonable means.

Credible evidence may include documentation of income or resources made available to the caretaker when the child's critical care needs were discovered.

Failure to Provide Proper Supervision

"Failure to provide proper supervision" is a category that includes such actions as abandonment, child endangerment, and other forms of maltreatment that do not meet the definitions for other types of abuse.

"Failure to provide proper supervision" also includes situations when a child is harmed or is exposed to risk of harm or danger of abuse through the failure of the caretaker to protect the child from a person who is known to be abusive to children.

Note: If abuse has already occurred through the caretaker's failure to protect the child from a known perpetrator, consider a finding of abuse by omission.

Factor 1: The victim is a **child**.

Factor 2: The person responsible for the abuse was a **caretaker** for the child at the time of the abuse.

Factor 3: The child was **directly harmed or placed at risk of harm**.
Examples of credible evidence include:

- ◆ Observation and documentation by the child protection worker or other credible person of the child's circumstances at the time of the abuse and analysis of the inherent risk of harm or danger of the situation.
- ◆ Statements from the child, the caretaker, or other witnesses as to the circumstances of the incident and the person's viewpoint as to whether or not the child was harmed or at risk of harm or danger.
- ◆ Statements of the child, the caretaker, or witnesses that a deadly weapon was intentionally aimed at the child or the child was threatened with a weapon.

- ◆ Law enforcement reports concerning an incident of assault, domestic violence, or other criminal act involving the child and caretaker, which document that the child was threatened with a deadly weapon.
- ◆ Statements of the child, the caretaker, or witnesses that in the course of assaulting or threatening another person's life or health, the caretaker harmed the child or placed the child at risk of harm or in danger of injury or death.
- ◆ Statements of the child, the caretaker, or witnesses that the child was involved in a domestic violence incident between the child's caretakers in which the child was forced or encouraged into the position of protecting one of the participants, exposing the child to direct harm, risk of harm, or life-threatening or health-threatening conditions.
- ◆ Law enforcement, medical, or domestic violence shelter reports concerning an incident of assault, domestic violence, or other criminal act involving the child and caretaker which document that the child was directly harmed or was placed at risk of harm or in a life-threatening or health-threatening situation due to the acts or omissions of the caretaker.
- ◆ Documentation that a child has been directly harmed or has been placed at risk of harm or in danger by being cruelly or unduly confined, either:
 - Physically, through binding, tying, or chaining;
 - Chemically, as in use of sedative medication; or
 - Indirectly, by locking a child in a room, closet, or restricted area.

Credible evidence that a child has been harmed or placed at risk of harm or in danger by confinement includes:

- ◆ Statements of the child, the caretaker, or witnesses that a child has been physically, chemically, or indirectly restrained or confined, either as a form of discipline or for punishment (not accidentally). Statements should indicate:
 - The length of the confinement or restraint.
 - The number of times the confinement or restraint occurred.
 - The reasons for the confinement or restraint.
 - The consequences to the child who was confined or restrained.

- ◆ Statement of a medical or mental health practitioner as to the condition of a child resulting from confinement or restraint imposed upon the child by a caretaker.
- ◆ Documentation that the confinement or restraint resulted in undue pain or emotional distress.
- ◆ Documentation that the confinement or restraint was unwarranted either by legal authorization or by medical sanction as a means of dealing with the child's behavior, such as:
 - Statement of the caretaker as to the caretaker's perceived authority to take such action with the child.
 - If the confinement or restraint occurred in a child care facility, a copy of the facility regulations regarding discipline and use of restraint and confinement.
- ◆ Documentation that the confinement or restraint did not include "time-outs" or other sound disciplinary techniques that might be considered to restrict a child's movement.
- ◆ Documentation that the confinement or restraint placed the child in more danger than the child would have been in if not confined or restricted.

Factor 4: The caretaker **failed to provide** the type of **supervision** that a reasonable and prudent person would exercise under similar facts and circumstances.

Examples of credible evidence include:

- ◆ Documentation of the caretaker's failure to perceive the direct harm or potential risk of harm or danger to the child.
- ◆ Documentation of the caretaker's failure to take adequate safety precautions to protect the child when the caretaker perceived direct harm or risk of harm or danger to the child.
- ◆ Documentation of the child's physical, mental, psychological, emotional, and practical abilities and limitations as these factors relate to self-protection in a given situation.
- ◆ Documentation of the statements of witnesses to the incident, and comparison of these statements with those made by the caretaker and the child.

- ◆ Statements of professionals as to whether or not the caretaker's actions to address the safety of the child were reasonable and prudent under the circumstances.

Factor 5: The caretaker was **financially able** to provide for the child's critical care needs, or refused to do so when offered financial and other reasonable means.

Credible evidence may include documentation of income or resources made available to the caretaker when the child's critical care needs were discovered.

Failure to Respond to an Infant's Life-Threatening Condition

Factor 1: The victim is an **infant**, defined as a child who:

- ◆ Is under the age of one year, or
- ◆ Is over the age of one year and
 - Has been continuously hospitalized since birth, or
 - Was born extremely prematurely, or
 - Has a long-term disability.

Factor 2: The person responsible for the abuse was a **caretaker** for the infant at the time of the abuse.

Factor 3: The caretaker has **failed to provide treatment** (including appropriate hydration, nutrition, and medication) to such an infant EXCEPT when any of the following apply:

- ◆ The child is chronically and irreversibly comatose.
- ◆ The provision of treatment would merely prolong dying.
- ◆ The provision of treatment would not be effective in ameliorating or correcting all of the child's life-threatening conditions.
- ◆ The provision of treatment would otherwise be futile in terms of the child's survival.
- ◆ The provision of treatment would be virtually futile in terms of the child's survival, and the treatment itself under such circumstances would be inhumane.

(See [Withholding Treatment to Medically Fragile Children.](#))

Examples of credible evidence include:

- ◆ Medical diagnosis of the child's disability or life-threatening condition.
- ◆ Documentation of the condition of the child at the time that the attending medical staff or caretakers made or were considering a decision to withhold treatment to the child.
- ◆ If the child has died before commencement of the assessment or dies during the assessment, a copy of the medical examiner's report on the cause of death.
- ◆ Statements of the caretakers regarding their understanding of:
 - The extent of the child's life-threatening condition.
 - The recommendations they received regarding withdrawal or withholding of life-saving water, food, or medical treatment.
 - Their decision as to what course of action should be taken for the infant's treatment.
 - How they communicated this decision to the medical personnel who were caring for the infant.

Note: Arrange medical consultation through your supervisor and the service help desk, who will request assistance from the child protective program. In no circumstance shall an assessment of an allegation of this nature be completed without consultation with medical specialists.

Factor 4: The caretaker was **financially able** to provide for the child's critical care needs, or refused to do so when offered financial and other reasonable means.

Credible evidence may include documentation of income or resources made available to the caretaker when the child's critical care needs were discovered.