

Child and Family Services Policy Manual: Investigation Reports of Suspected Medical Neglect of Handicapped Infants

Background	This policy section applies to health care providers receiving Federal funds, e.g. hospitals. (Section 202-3, Investigation of the Report, addresses reports of medical neglect by parents or others responsible for the child's welfare.) The Federal law establishing these policies is referred to as "Baby Doe" and prohibits discrimination on the basis of handicap. Under this law, nourishment and medically beneficial treatment should not be withheld from handicapped infants solely on the basis of their present or anticipated mental or physical impairments.
Reporters	Under Mont. Code Ann. §41-3-201 professionals, including health care providers, must report suspected child abuse or neglect. The withholding of medically indicated treatment, defined in Mont. Code Ann. §41-3-102, and Section 202-2 of this policy manual, is one form of abuse or neglect that must be reported.
Investigation	Reports of such suspected medical neglect shall be investigated promptly by the child protection specialist pursuant to the requirements of Mont. Code Ann. §41-3-202. Where appropriate, the child protection specialist should conduct an on-site investigation of reports of such alleged medical neglect of handicapped infants.
Consultation with ICRC	Whenever a hospital at which an infant who is the subject of a report of suspected unlawful medical neglect is being treated has an Infant Care Review Committee, the investigating child protection specialist should consult with the ICRC in carrying out the investigation.
Legal Action	If the report is substantiated after investigation, or if more information is needed to substantiate the report, the child protection specialist should contact the county attorney and request that he or she file a Petition for Immediate Protection and Emergency Protective Services or other legal remedy. Where necessary, the petition may request an order from the court compelling the provision of medically indicated treatment, as defined in Mont. Code Ann. §41-3-102.
Notification of Division	Upon receipt of a report of suspected medical neglect of a handicapped infant, the local office shall notify the Program Bureau Chief at the central office. Contact should be made by telephone followed by written confirmation.

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Division Action The central office is responsible for contacting the appropriate Health and Human Service (HHS) official regarding each report of suspected medical neglect of handicapped infants per 45 CFR 84.55(c)(v).

References Mont. Code Ann. §41-3-102.
Mont. Code Ann. § §41-3-201 and 202.
Mont. Code Ann. §41-3-427.
45 CFR 84.55