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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A23-0168**

In the Matter of the Welfare of the Child of:
J. L. G., Parent.

**Filed June 26, 2023
Affirmed
Smith, Tracy M., Judge**

Hennepin County District Court
File No. 27-JV-22-1306

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E.M.G.M., Mounds View, Minnesota (pro se respondent father)

Calvin McIntyre, Minneapolis, Minnesota (guardian ad litem)

Considered and decided by Smith, Tracy M., Presiding Judge; Jesson, Judge; and
Wheelock, Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

Appellant-mother J.L.G. challenges the district court's order adjudicating her child,
E.S.G., in need of protection or services (CHIPS) and a subsequent order denying her
motion for a new trial. J.L.G. argues that the district court (1) erred as a matter of law and

violated her due-process rights when it relied on J.L.G.'s noncompliance with a voluntary case plan as evidence in support of the CHIPS adjudication, (2) violated her due-process rights when it failed to conduct the CHIPS trial within the timelines provided in the Minnesota Rules of Juvenile Protection Procedure, (3) erred by excluding testimony from one of J.L.G.'s witnesses, and (4) abused its discretion by determining that E.S.G. is in need of protection or services under three statutory grounds. We affirm.

FACTS

J.L.G. gave birth to E.S.G. in 2008 and is E.S.G.'s sole legal and physical custodian. E.S.G. has diagnoses including major depressive disorder, attention deficit hyperactivity disorder, and a disease that impacts a person's strength and mobility. J.L.G. indicated that E.S.G. engages in aggressive behavior, such as hitting, property destruction, making threats, defiance, and screaming.

J.L.G. and E.S.G. have a history of conflict. J.L.G. explained that altercations occur monthly and include verbal and physical aggression. These episodes have resulted in calls to authorities for emergency assistance and hospitalizations.

June 1, 2022 Incident

On June 1, 2022, J.L.G. and E.S.G. had an altercation in their home. After J.L.G. attempted to take electronics from E.S.G., E.S.G. physically attacked J.L.G. J.L.G. attempted to deescalate the situation, but, because she observed E.S.G.'s escalating mental crisis, she called the police. E.S.G. was taken to a hospital emergency room. When the hospital determined that E.S.G. was ready for discharge that evening, J.L.G. refused to pick her up and bring her home. J.L.G. refused to sign discharge paperwork until E.S.G.

accessed a higher level of care, such as “an inpatient or crisis stabilization place.” As a result, E.S.G. stayed at the hospital for approximately two weeks after she was medically ready for discharge.

Respondent Hennepin County Human Services and Public Health Department became involved after receiving a report alleging J.L.G.’s neglect of E.S.G. when J.L.G. failed to retrieve E.S.G. from the hospital.

CHIPS Proceedings

While E.S.G. stayed in the hospital, the child protection investigator (investigator) assigned to E.S.G.’s case spoke with J.L.G., who explained that she was unwilling to have E.S.G. in her home because she felt E.S.G. was dangerous and needed a higher level of care. She also refused to release E.S.G. to E.S.G.’s adjudicated, noncustodial father.

On June 17, 2022, the county petitioned the district court to adjudicate E.S.G. as CHIPS. The petition outlined the physical aggression between E.S.G. and J.L.G. and detailed J.L.G.’s unwillingness to allow E.S.G. to leave the hospital despite E.S.G. being medically ready for discharge. The petition also reflected the county’s concern that, if E.S.G. returned home with J.L.G., “it would be setting [E.S.G.] up for failure and possibly getting charges for assault at some point down the road.”

At an emergency protective care (EPC) hearing that same day, the district court determined that the CHIPS petition made a prima facie showing that a juvenile protection matter existed for E.S.G. The county placed E.S.G. with her father under protective supervision. The district court provided J.L.G. with a “voluntary interim case plan” and

visitation arrangements, including reasonable supervised visits and unsupervised visits at E.S.G.'s discretion.

On October 5, November 21, and November 22, 2022, the district court held the CHIPS trial. During the trial, the district court heard testimony from J.L.G., the investigator, the child protection social worker (social worker), E.S.G.'s father, and the guardian ad litem.

The district court issued an order adjudicating E.S.G. as CHIPS, determining that the county proved three statutory grounds by clear and convincing evidence. J.L.G. filed a posttrial motion seeking a new trial, which the district court denied.

J.L.G. appeals.

DECISION

“The paramount consideration in all juvenile protection proceedings is the health, safety, and best interests of the child.” Minn. Stat. § 260C.001, subd. 2(a) (2022). “The laws relating to the juvenile protection proceedings shall be liberally construed to carry out these purposes.” *Id.*, subd. 4 (2022).

We review a district court's CHIPS determination using “a very deferential standard of review” and will not reverse absent “a clear abuse of discretion.” *In re Welfare of Child of S.S.W.*, 767 N.W.2d 723, 734 (Minn. App. 2009) (quotation omitted). “A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against logic and the facts on record.” *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (quotation omitted). We review the district court's “factual findings for clear error.” *In re Welfare of Child of D.L.D.*, 865

N.W.2d 315, 321 (Minn. App. 2015), *rev. denied* (Minn. July 20, 2015). But issues related to due process are reviewed de novo. *See, e.g., In re Welfare of Child. of D.F.*, 752 N.W.2d 88, 97 (Minn. App. 2008) (“Whether a parent’s due-process rights have been violated in a [termination-of-parental-rights] proceeding is a question of law, which we review de novo.”); *Zellman ex rel. M.Z. v. Indep. Sch. Dist. No. 2758*, 594 N.W.2d 216, 220 (Minn. App. 1999) (“This court reviews de novo the procedural due process afforded a party.”), *rev. denied* (Minn. July 28, 1999).

I. The district court did not err as a matter of law or violate J.L.G.’s due-process rights when it considered her noncompliance with the voluntary case plan.

J.L.G. argues that the district court erred as a matter of law and violated her substantive and procedural due-process rights by relying on her noncompliance with the voluntary case plan in adjudicating E.S.G. as CHIPS.

When a child is removed from their home, the county must prepare and file a case plan. Minn. Stat. §§ 260C.212, subd. 1, .178, subd. 7 (2022). The case plan is to be prepared by the social services agency jointly with the parents. Minn. Stat. § 260C.212, subd. 1(b). Before a CHIPS adjudication, as here, the case plan includes voluntary—not mandatory—recommendations. Minn. Stat. § 260C.178, subd. 7(d); Minn. R. Juv. Prot. P. 26.02, subd. 4(c).

Following the EPC hearing, the district court issued an order for protective supervision with E.S.G.’s father. As part of the order, and following subsequent discussions between the parties prior to the CHIPS trial, the district court approved a “voluntary interim case plan” that recommended the following for J.L.G.:

- Participate in parenting education
- Maintain safe and suitable housing
- Notify the child protection social worker of any changes in residence
- Engage in family therapy
- Engage in individual therapy
- Refrain from physical altercations or discipline
- Ensure E.S.G.'s basic needs are met
- Cooperate with the county
- Complete a combined mental health and parenting assessment

In its order adjudicating E.S.G. as CHIPS, the district court made findings about J.L.G.'s compliance with recommendations in the voluntary case plan. It found that J.L.G. had not “meaningfully participated in case plan services” and that she “made minimal progress with her case plan,” resulting in “the concerns central to this case’s opening” remaining unresolved.

J.L.G. argues that the district court violated her due-process rights in two ways. First, she suggests that the district court erred by considering her noncompliance with the case plan because the case plan was not jointly prepared. Second, she argues that the district court violated her due-process rights because it “overwhelmingly relied” on J.L.G.’s noncompliance with a case plan that was voluntary. We address each argument in turn.¹

¹ As a threshold matter, J.L.G. did not raise a due-process argument in the district court. If a parent raises an issue for the first time on appeal from a juvenile court proceeding, the argument is forfeited. *In re Welfare of D.D.G.*, 558 N.W.2d 481, 485 (Minn. 1997). Appellate courts, however, have discretion to address arguments not properly before them if it is in the interests of justice to do so. Minn. R. Civ. App. P. 103.04. This discretion is broad enough to allow the appellate court to address constitutional arguments not properly before it. *See, e.g., State v. Sorenson*, 441 N.W.2d 455, 457 (Minn. 1989) (stating that appellate courts “may . . . at [their] discretion, decide to hear such issues when the interests of justice require their consideration and addressing them would not work an unfair surprise on a party”); *Tischendorf v. Tischendorf*, 321 N.W.2d 405, 410 (Minn. 1982) (stating that “constitutional rights can be asserted on appeal when the interests of justice require

A. The county satisfied the joint-preparation requirement.

As J.L.G. points out, Minnesota Statutes section 260C.212, subdivision 1(b), requires that a case plan be “prepared by the responsible social services agency jointly with the child’s parents or guardians and in consultation with the child’s guardian ad litem.” That same statute requires that the case plan be prepared “within 30 days after . . . child is placed in foster care.” Minn. Stat. § 260C.212, subd. 1(a).

During her CHIPS-trial testimony, J.L.G. asserted that, prior to the EPC hearing, the county never contacted her to discuss what types of services would be helpful. The social worker agreed that she did not discuss the case plan with J.L.G. before the EPC hearing. She confirmed both that the case plan was proposed at the EPC hearing, and that, at that time, J.L.G. was able to object to any goal included in the case plan. The social worker also explained that she attempted to discuss the case plan with J.L.G. but that J.L.G. “just wanted [the social worker] to give her the copy [of the case plan], and she indicated that she understood it on her own.” The district court found that J.L.G. did not provide credible testimony “as to the underlying facts of the child protection case” and that the social worker provided “credible and persuasive” testimony about her interactions with J.L.G.

J.L.G. asserts that the case plan was not jointly prepared as required by statute because the case plan was proposed at the EPC hearing without her input and she was only

consideration of such issues, when the parties have had adequate time to brief such issues, and when such issues are implied in the lower court”). Because we conclude that it is in the interests of justice to address J.L.G.’s due-process argument here, we will exercise our discretion to consider the issue.

given the opportunity to “review” or “object” to the plan. As the county points out, though, the statute requires preparation of a case plan within 30 days after a child is placed in foster care. This timeframe, according to the county, recognizes the “practical reality” of the “very quick turnaround between the time the ongoing social worker is assigned and tasked with developing a proposed case plan, and when the EPC hearing occurs.” By allowing 30 days to prepare the case plan after the child is placed in foster care, the statute permits joint preparation of a case plan even after an EPC hearing and order. The social worker testified that she tried to discuss the case plan with J.L.G. after the EPC hearing but that J.L.G. refused, and the district court found the social worker’s testimony credible. We defer to the district court’s credibility determinations. *See In re Welfare of Child of H.G.D.*, 962 N.W.2d 861, 873 (Minn. 2021). On this record, we conclude that the county attempted to involve J.L.G. in preparing the case plan, in satisfaction of the statutory requirement.

B. The district court did not violate J.L.G.’s due-process rights by considering her noncompliance with the voluntary case plan.

J.L.G. asserts that the district court violated her due-process rights because it “overwhelmingly relied” on her noncompliance with the voluntary case plan when adjudicating E.S.G. as CHIPS.

J.L.G. correctly asserts that a district court may not order compliance with a voluntary case plan “until the court finds the child is in need of protection or services and orders disposition.” Minn. Stat. § 260C.178, subd. 7(d); Minn. R. Juv. Prot. P. 26.02, subd. 4(c). According to J.L.G., considering compliance with a voluntary case plan “in the early

stages of the proceeding before a child is determined to be in need of protection and services . . . is against logic and notions of fundamental fairness.”

We are not persuaded. The key inquiry at the CHIPS adjudication stage is whether “the child in question is being abused or neglected or *appears to be presently at risk*.” *S.S.W.*, 767 N.W.2d at 732. Although we agree that a district court may not order compliance with a voluntary case plan until the district court adjudicates the child as CHIPS, we also recognize that assessing present risk may require consideration of events after the filing of the CHIPS petition up until the trial. *See* Minn. Stat. § 260C.178, subd. 7(d); Minn. R. Juv. Prot. P. 26.02, subd. 4(c). Here, after the county filed the CHIPS petition in June 2022, E.S.G. lived with her father and maintained minimal contact with J.L.G. The district court reasonably turned to the voluntary case plan to assess the level of risk currently associated with J.L.G.’s household. The district court found that J.L.G. had not meaningfully addressed the issues that contributed to altercations with her daughter, including by not meaningfully participating in case-plan services. Thus, the district court concluded, the central concerns underlying the CHIPS petition remained present. The district court’s reference to J.L.G.’s nonparticipation in the voluntary case plan’s recommendations did not constitute improper reliance because the district court considered that fact, among others, in determining the current risk of harm or neglect if E.S.G. returned to J.L.G.’s care. As a result, we discern no due-process violation from the district court’s consideration of J.L.G.’s noncompliance with the voluntary case plan.

II. The district court did not violate J.L.G.’s due-process rights by conducting the CHIPS trial beyond the statutory timeline.

J.L.G. argues that the district court violated her due-process rights by failing to conduct the CHIPS trial within the applicable timeline.² Pursuant to Minnesota Rule of Juvenile Protection Procedure 49.01, “a trial regarding a child in need of protection or services matter shall commence within 60 days from the date of the emergency protective care hearing or the admit/deny hearing, whichever is earlier.” The CHIPS trial began on October 5—110 days after the June 17 EPC hearing—in violation of the rule. However, this does not end our analysis. The question we are asked to consider is whether this violation of the procedural rule deprived J.L.G. of due process.

“Due process requires reasonable notice, a timely opportunity for a hearing, the right to counsel, the opportunity to present evidence, the right to an impartial decision-maker, and the right to a reasonable decision based solely on the record.” *D.F.*, 752 N.W.2d at 97. “[P]rejudice as a result of the alleged violation is an essential component of the due process analysis.” *In re Welfare of Child of B.J.-M.*, 744 N.W.2d 669, 673 (Minn. 2008). “The prejudice inquiry is necessary because . . . ‘due process is flexible and calls for such procedural protections as the particular situation demands.’” *Bendorf v. Comm’r of Pub. Safety*, 727 N.W.2d 410, 415 (Minn. 2007) (quoting *Morrissey v. Brewer*, 408 U.S. 471,

² As a threshold matter, we recognize that J.L.G. failed to raise this argument before the district court and thus it is forfeited. See *D.D.G.*, 558 N.W.2d at 485. However, just as we concluded in Section I, we will consider J.L.G.’s argument. See *Tischendorf*, 321 N.W.2d at 410; *Sorenson*, 441 N.W.2d at 457.

481 (1972)); *In re Welfare of HGB*, 306 N.W.2d 821, 825 (Minn. 1981) (“It is settled that the nature of due process is flexibility.”).

J.L.G. asserts that the delayed CHIPS trial prejudiced her in two ways.

First, J.L.G. asserts she was prejudiced by the delay because it “kept E.S.G. out of [J.L.G.’s] home for an extended period of time without a CHIPS adjudication.” J.L.G. highlights that “[c]hild protection matters demand quick resolution, particularly where a child is placed outside the home pending disposition of the matter.” *In re Welfare of S.N.T.R.*, 403 N.W.2d 293, 296 (Minn. App. 1987). We acknowledge that the delayed CHIPS trial interfered with J.L.G.’s rights to make decisions concerning the care, custody, and control of E.S.G. *See Troxel v. Granville*, 530 U.S. 57, 65 (2000). But the delay did not prejudice J.L.G. with respect to being able to make decisions concerning the care, custody, and control of E.S.G. because E.S.G. was adjudicated as CHIPS and continued to be placed with her father, not J.L.G.

Second, J.L.G. asserts that the delayed trial allowed the county’s “ongoing intrusion into her life up until the time of trial,” resulting in additional evidence used against her. But, as the county outlines and the prehearing report reveals, much of the evidence gathered against J.L.G. occurred within the 60-day time window of a timely trial. By the beginning of August—when a timely trial would have been held—J.L.G. had refused parenting education, removed E.S.G. from her insurance, refused to provide E.S.G.’s belongings as requested, and denied E.S.G.’s efforts to have contact with her. Thus, the delay in holding the trial did not result in the production of prejudicial evidence. Indeed, the additional time

gave J.L.G. a greater opportunity to correct the conditions likely to be at issue when the matter went to trial.

We thus disagree that J.L.G. was prejudiced by the delay. Moreover, J.L.G. fully contested the CHIPS petition. She testified during the trial, and her trial attorney conducted cross-examination of the county's witnesses. We discern no due-process violation based on the untimely CHIPS trial.

III. The district court did not commit prejudicial error when it excluded the testimony of J.L.G.'s mother.

J.L.G. argues that the district court erred by excluding the testimony of her mother, S.C., "which violated [J.L.G.'s] due process rights and impacted the [district] court's credibility determination to the detriment of [J.L.G.]." This exclusion, according to J.L.G., violated an enumerated right under the Minnesota Rules of Juvenile Protection Procedure: presenting evidence and calling witnesses. Minn. R. Juv. Prot. P. 49.02, subd. 2(a)(1)-(2). J.L.G. contends that she was prejudiced by the exclusion of S.C.'s testimony because the district court made "an adverse credibility finding with respect to [her] testimony" and that, with S.C.'s testimony, the district court "may have come to a different conclusion regarding [J.L.G.'s] overall credibility and E.S.G.'s need for protection or services."

The argument is unconvincing. In juvenile protection matters, parents are statutorily entitled "to be heard, to present evidence material to the case, and to cross-examine witnesses appearing at the hearing." Minn. Stat. § 260C.163, subd. 8 (2022). And the rights to be heard, present evidence, and cross-examine witnesses form part of the general guarantees of due process. *In re Welfare of J.W.*, 391 N.W.2d 791, 794 (Minn. 1986). But

“whether to admit or exclude evidence is discretionary with the district court” and subject to the rules of evidence. *D.L.D.*, 865 N.W.2d at 320; Minn. R. Juv. Prot. P. 3.02, subd. 1; *see also* Minn. Stat. § 260C.163, subd. 1(a) (2022). To prevail based on an improper evidentiary ruling, a complaining party must demonstrate prejudicial error. *In re Welfare of Child. of J.B.*, 698 N.W.2d 160, 172 (Minn. App. 2005).

On the second day of the CHIPS trial, the district court reminded the parties about the limited time remaining. In response, the county approached J.L.G.’s counsel and offered to “stipulate to an affidavit” of S.C.’s testimony. But J.L.G.’s counsel rejected the offer given the distance traveled by S.C. to appear at the trial. The district court initially stated that S.C. would be allowed to testify. Later, when J.L.G. attempted to call S.C. as a witness, the county objected because the testimony would be “cumulative.” J.L.G.’s counsel clarified that S.C.’s testimony would be offered “to corroborate [J.L.G.’s] account of what happened” during the June 2022 altercation because S.C. was on the phone with J.L.G. during the interaction. Because none of the parties contested J.L.G.’s account of what happened, the district court did not allow S.C. to testify.

Although the district court made several findings that appear to question J.L.G.’s account of the June 2022 altercation, this was not the only basis for the district court’s credibility determination about J.L.G. The district court found that J.L.G.’s testimony was “self-serving and attempted to downplay her parenting and interpersonal challenges.” It also found that her testimony “conflicted with contemporaneous records in evidence and the testimony of other, more credible witnesses.” Thus, adding S.C.’s account of the June 2022 altercation—based on what she heard over the phone—would not change the district

court’s credibility assessment or the outcome of the CHIPS trial. J.L.G. therefore fails to demonstrate prejudicial error in excluding S.C.’s testimony.

IV. The district court did not abuse its discretion when it determined that E.S.G. is in need of protection or services under three statutory grounds.

Minnesota Statutes section 260C.007, subdivision 6 (2022), “requires proof that one of the enumerated child-protection grounds exists and that the subject child needs protection or services as a result.” *S.S.W.*, 767 N.W.2d at 728.³ We review the district court’s “finding of a statutory basis for the order for abuse of discretion.” *D.L.D.*, 865 N.W.2d at 321. This review involves an inquiry into the sufficiency of the evidence, but requires deference “to the district court, which is in a superior position to assess the credibility of witnesses.” *H.G.D.*, 962 N.W.2d at 873 (quotation omitted).

J.L.G. argues that the district court abused its discretion when it adjudicated E.S.G. as CHIPS under Minnesota Statutes section 260C.007, subdivision 6(3), (8), and (9). The county bears the burden to show, by clear and convincing evidence, that E.S.G. meets the CHIPS definition. *See S.S.W.*, 767 N.W.2d at 730.⁴

³ The current version of Minnesota Statutes section 260C.007, subdivision 6, is—for the purposes of this analysis—consistent with the 2008 version of the statute considered in *S.S.W.*

⁴ The district court determined that three statutory bases were met, and, although one suffices, we elect to review all three determinations.

A. The district court did not abuse its discretion by determining that section 260C.007, subdivision 6(3), is met.

J.L.G. argues that the district court abused its discretion by finding that Minnesota Statutes section 260C.007, subdivision 6(3), is met. Subdivision 6(3) defines a child as CHIPS if the child

is without necessary food, clothing, shelter, education, or other required care for the child's physical or mental health or morals because the child's parent, guardian, or custodian is unable or unwilling to provide that care.

J.L.G. asserts that the district court abused its discretion because (1) the evidence is insufficient to support a finding under this statutory subdivision absent the evidence of J.L.G.'s noncompliance with the voluntary case plan, (2) focusing on behavior during E.S.G.'s placement with her father was an error, and (3) there is no nexus between evidence that this statutory ground exists and the need for protection or services. We address each argument in turn.

First, the district court did not abuse its discretion by determining that J.L.G. is unwilling to provide the care E.S.G. needs under subdivision 6(3). As an initial matter, as explained above, the district court did not err by considering evidence of J.L.G.'s noncompliance with the voluntary case plan. But, even without that evidence, the district court's determination is supported by the record.

The district court found that, "[d]espite the continued implementation of various services—day treatment, medication management, and children's mental health resources—the altercations continued to occur, exposing [J.L.G.] to further injury and [J.L.G.] and [E.S.G.] to mental distress." This finding is supported by the record. J.L.G.

testified that, up to the June 2022 incident, the altercations occurred monthly. This is despite E.S.G.'s enrollment in school, participation in day treatment, and access to medications. Moreover, J.L.G. submitted exhibits showing the injuries she sustained from altercations in November 2021, January 2022, and June 2022.

The district court also found that J.L.G. has “not acknowledged her contribution to the altercations or considered how her childhood trauma may negatively impact her parenting.” This finding is supported by the record. During J.L.G.'s testimony, she acknowledged that she had “trauma from [her] teens.” During her parenting assessment and in response to a question about her mental health and how it impacts her ability to parent, J.L.G. stated, “I have no mental health issues other than my trauma from childhood and basically while in foster care.” The parenting assessment recommended individual therapy for J.L.G. to “process her foster care experience,” but J.L.G. only attended “two or three” sessions. She explained that she stopped in part because the therapist “was not able to really diagnose [her] with anything because [she] didn't have . . . any mental health issues, any diagnosis.”

The district court also found that J.L.G. “fractured her relationship” with E.S.G. by refusing to provide shelter for two weeks during E.S.G.'s hospital stay in June 2022, refusing to supply E.S.G. with a few items that E.S.G. requested from J.L.G.'s home, and refusing visitation with E.S.G. This finding is supported by the record. The report that prompted the CHIPS proceeding stemmed from J.L.G.'s refusal to retrieve E.S.G. from the hospital, leaving E.S.G. there for two weeks after she was medically ready for discharge; the investigator acknowledged that “when a person is medically ready to be discharged” it

is “traumatic to be out of home in a hospital setting.” In addition, the social worker testified that E.S.G. requested a few items from J.L.G.’s home, including her Nintendo Switch, cacti, and a photograph of a cat. J.L.G. gave the social worker the Nintendo Switch with one game, but the photograph of the cat had been thrown away and J.L.G. decided to keep the cacti. Also, visitation had not occurred in this case. When E.S.G. became ready for visitation, she requested 30 minutes in person, but J.L.G. declined, asserting that coordinating transportation for just 30 minutes was unreasonable. Next, E.S.G. expressed interest in a video visit, but J.L.G. declined this as well. Eventually, E.S.G. did not want visitation or contact. The district court did not clearly err by finding that J.L.G. fractured her relationship with E.S.G.

Second, the district court did not err by considering E.S.G.’s behavior during her placement with her father. J.L.G. urges this court to focus on the fourteen years E.S.G. remained in J.L.G.’s care. But this ignores part of the district court’s required assessment: the key inquiry is whether “the child in question is being abused or neglected or *appears to be presently at risk*.” *S.S.W.*, 767 N.W.2d at 732. The district court’s consideration of behaviors during E.S.G.’s placement with her father allowed for assessment of present risk.

Third, there is no absence of a nexus between evidence that this statutory ground exists and the need for protection or services. J.L.G. asserts that, even if there is clear and convincing evidence in support of the statutory ground, there is not clear and convincing evidence “to support any nexus between the statutory ground and any resulting need for protection or services” because “the record is largely devoid of any evidence or articulable harm suffered by E.S.G.” J.L.G. is correct that the record does not contain any evidence of

physical harm caused to E.S.G. But the record contains evidence of other harms: trauma from being left in the hospital beyond the time E.S.G. was ready for discharge, and documented concerns regarding J.L.G. causing mental harm to E.S.G.

J.L.G. essentially asks this court to reweigh the evidence. “An appellate court exceeds its proper scope of review when it bases its conclusions on its own interpretation of the evidence and, in effect tries the issues anew and substitutes its own findings for those of the trial judge.” *S.S.W.*, 767 N.W.2d at 733 (quotation omitted). We will not do so here.

In sum, the district court did not abuse its discretion by determining that E.S.G. is in need of protection or services because J.L.G. was unable or unwilling to provide E.S.G. with the necessary care for her physical or mental health. *See* Minn. Stat. § 260C.007, subd. 6(3).

B. The district court did not abuse its discretion by determining that section 260C.007, subdivision 6(8), is met.

J.L.G. argues that the district court abused its discretion by finding that Minnesota Statutes section 260C.007, subdivision 6(8), is met. Subdivision 6(8) defines a child as CHIPS if the child

is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child’s parent, guardian, or other custodian.

J.L.G. asserts that the county did not carry its burden by presenting sufficient evidence in support of this statutory ground or the nexus between the statutory ground and the resulting need for protection or services.

The district court determined that J.L.G. has “demonstrated an inability to consider [E.S.G.’s] needs and how [J.L.G.’s] actions have deeply hurt and negatively impacted [E.S.G.]” In addition, the district court determined that J.L.G. “has displayed an indifference to how her actions affect [E.S.G.]” and that J.L.G. allows family dynamics to “supersede what is best for [E.S.G.]”

These determinations are supported by the district court’s factual findings. The district court found that J.L.G. “views herself as a victim of one-sided violence.” It found that J.L.G. “refused visitation” because the terms were not what J.L.G. preferred—resulting in zero contact during these proceedings. The district court also found that J.L.G. “placed a heavy burden” on E.S.G.’s father when she removed E.S.G. from her insurance coverage.⁵ Moreover, the district court highlighted J.L.G.’s refusal to allow E.S.G. to go home or be released from the hospital in June 2022 and the cancelling of E.S.G.’s subsequent medical appointments without consent from E.S.G.’s father.

Although the district court did not make explicit findings and determinations about J.L.G.’s emotional, mental, or physical disability, or state of immaturity, those findings are easily inferred from the district court’s analysis pursuant to this statutory provision. J.L.G. also asserts that the district court “ignored relevant testimony” that J.L.G. was able to navigate complex systems to obtain care for E.S.G. But it is well within the district court’s discretion to weigh conflicting evidence. *In re Adoption of C.H.*, 554 N.W.2d 737, 743 (Minn. 1996).

⁵ The district court gave limited weight to this information because the record reflects that J.L.G. received conflicting advice about whether to keep E.S.G. on her insurance.

As a result, the district court did not abuse its discretion by determining that E.S.G. is in need of protection or services because she is without proper parental care due to J.L.G.’s emotional, mental, or physical disability, or state of immaturity.⁶

C. The district court did not abuse its discretion by determining that section 260C.007, subdivision 6(9), is met.

J.L.G. argues that the district court abused its discretion by adjudicating E.S.G. as CHIPS under Minnesota Statutes section 260C.007, subdivision 6(9), because clear and convincing evidence does not support a determination that the statutory basis creates a need for protection or services. Minnesota Statutes section 260C.007, subdivision 6(9), states that the need for protection or services exists if the child

is one whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others. An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child’s home.

J.L.G. recognizes that the statutory ground exists due to the “prior verbal and physical altercations” between J.L.G. and E.S.G. and only contests whether there is clear and convincing evidence to support a determination that E.S.G. needs protection or services as a result of this environment.

J.L.G. asserts that she has “consistently provided the care and mental health supports E.S.G. requires.” It is true—and the district court acknowledged—that J.L.G. is “capable of providing food, clothing, shelter, . . . education . . . and . . . setting up services.”

⁶ To the extent that J.L.G. reasserts the arguments made regarding subdivision 6(3), including that the district court improperly considered behavior while E.S.G. lived with her father and the lack of evidence supporting a finding that J.L.G. contributed to the altercations with E.S.G., we refer to our analysis and conclusions in Section IV(A) above.

However, the record reflects that, prior to the county's CHIPS petition filing, J.L.G. would not retrieve E.S.G. from the hospital until she received a higher level of care. Moreover, J.L.G. has refused to provide E.S.G. with the items requested to feel at home while in her father's care. Again, J.L.G. essentially asks this court to reweigh the evidence, which we will not do. *S.S.W.*, 767 N.W.2d at 733.

The district court did not abuse its discretion by ruling that E.S.G.'s environment with J.L.G. is injurious or dangerous. As a result, the district court did not abuse its discretion by adjudicating E.S.G. as CHIPS pursuant to Minnesota Statutes section 260C.007, subdivision 6(9).⁷

Affirmed.

⁷ J.L.G. also contends that even if the asserted errors are not enough to warrant reversal on their own, the cumulative effect of the district court's errors warrant such relief. Because we discern no errors, we need not address this argument.