



Appendix XXVII, Fair Hearing Options for MDCP Denials

Your child isn't eligible for the Medically Dependent Children Program.

The Texas Medicaid and Healthcare Partnership (TMHP) has found your child doesn't meet the medical necessity requirements for MDCP. Form H2065-D, Notification of Managed Care Program Services, lists the reasons TMHP used to make this decision.

You can see the rules for MDCP eligibility on page 2 of this attachment.

You may appeal this decision.

If you want to appeal, you must ask for a fair hearing. We've provided a request form (page 4) that you can use to ask for a fair hearing.

- If you use the form, mail it to the address on the top of Form H2065-D. You can also request a fair hearing by phone.
- You have 90 days from the date on Form H2065-D to ask for a fair hearing.

To learn more, see "How Fair Hearings Work," on page 3 of this attachment.

You may apply for the Medicaid Buy-In for Children Program.

You might be able to get the Medicaid Buy-In for Children (MBIC) program for your child. MBIC offers low-cost Medicaid services to children with disabilities in families that make too much money to get Medicaid.

MBIC covers the same services as Medicaid, including long-term services and supports like nursing home care and personal care.

If your child can get MBIC, you might have to make a monthly payment depending on your income and whether you have health insurance through your job.

Call or visit an HHSC benefits office. To find an office near you, call 2-1-1 (toll-free). 2-1-1 also can answer questions about this program, pick option 2.

Rules used to make this decision

To be eligible for MDCP, your child must meet the medical necessity criteria for a nursing facility level of care. This means your child must:

- Have a medical condition serious enough that their needs exceed the routine care an untrained person can provide.
- Require licensed nurses' supervision, assessment, planning, and intervention only available in an institution.

Medical or nursing services for your child must be:

- Ordered by a doctor.
- Needed because of your child's documented medical conditions.
- Provided by a registered or licensed vocational nurse.
- Provided directly or under the supervision of a licensed nurse in an institutional setting.
- Required on a regular basis.

You can find the eligibility criteria for MDCP in Title 1 of the Texas Administrative Code at Section 353.1155 and Title 26 of the Texas Administrative Code at Section 554.2401.

If you have questions about this notice, call the Texas Health and Human Services Commission at the phone number listed on the top, right-hand corner of Form H2065-D.

Your Rights

If you believe you have been discriminated against because of race, color, national origin, age, sex, disability, political beliefs, or religion, you may file a complaint with the HHSC staff shown in the box on the top right-hand corner of Form H2065-D or by writing to:

Civil Rights Department
Health and Human Services
P.O. Box 149030
Austin, Texas 78714-9030

How Fair Hearings Work

A fair hearing is when a hearings officer who is not part of the Medicaid program reviews the decision to deny your eligibility for services based on medical necessity.

If you ask for a fair hearing, your hearing will be scheduled within 30 days. A packet of information will be mailed to you before your hearing.

- You can submit new facts about your case. You have the right to see your records and any information that will be used.
- Hearings can last anywhere from 30 minutes to four hours, depending on the issue. Most hearings are held by phone, but if you have a good reason, you can call your hearings officer to ask for an in-person hearing.
- You can represent yourself or pick a relative, friend, or lawyer to represent you during the hearing. You will have to pay any fees they charge to represent you. To find out if there is free legal help in your area, call 2-1-1.

You will get a written decision within 60 days of the date you asked for the hearing. The decision will explain your right to have the case reviewed if you disagree with the outcome.

If you lose your fair hearing, you won't have to repay the cost of services unless you asked in bad faith or with intent to commit fraud.

Need Help?

If you have questions about the fair hearings process, call the HHS Ombudsman at 866-566-8989 or submit them online at hhs.texas.gov/managed-care-help.

Fair Hearing Request Form for MDCP Denials

You can fill out this form to ask for a fair hearing. If you use this form, mail it to the address at the top of Form H2065-D, Notification of Managed Care Program Services. You can also make a request by calling the phone number on the top of Form H2065-D.

You have 90 days from the date at the top of Form H2065-D to appeal.

Member Information *

Last Name:	First Name:
Parent or Guardian Last Name:	Parent or Guardian First Name:
Medicaid ID:	Phone Number:
Address:	

Legally Authorized Representative (LAR) Information *

Last Name:	First Name:
Phone Number:	
Address:	

Request a Fair Hearing

<input type="checkbox"/> I want a fair hearing.	
_____	_____
Signature – Member, Parent or Guardian, or LAR	Date

***You must fill in these boxes.**

26 Texas Administrative Code Section 554.2401 General Qualifications for Medical Necessity Determinations

Medical necessity is the prerequisite for participation in the Medicaid (Title XIX) Long-term Care program. This section contains the general qualifications for a medical necessity determination. To verify that medical necessity exists, an individual must meet the conditions described in paragraphs (1) and (2) of this section.

(1) The individual must demonstrate a medical condition that:

(A) is of sufficient seriousness that the individual's needs exceed the routine care which may be given by an untrained person; and

(B) requires licensed nurses' supervision, assessment, planning, and intervention that are available only in an institution.

(2) The individual must require medical or nursing services that:

(A) are ordered by a physician;

(B) are dependent upon the individual's documented medical conditions;

(C) require the skills of a registered or licensed vocational nurse;

(D) are provided either directly by or under the supervision of a licensed nurse in an institutional setting; and

(E) are required on a regular basis.

Source Note: The provisions of this Section 554.2401 adopted to be effective Sept. 1, 2008, 33 TexReg 7264; transferred effective Jan. 15, 2021, as published in the Texas Register Dec. 11, 2020, 45 TexReg 8871