



## **Appendix XI, Fair Hearing Options for STAR+PLUS HCBS Program Denials**

You aren't eligible for the STAR+PLUS Home and Community Based Services program.

The Texas Medicaid and Healthcare Partnership (TMHP) has found you don't meet the medical necessity requirements for the STAR+PLUS HCBS program. Form H2065-D, Notification of Managed Care Program Services, lists the reasons TMHP used to make this decision.

You can see the rules for STAR+PLUS HCBS program eligibility on Pages 1-2 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 may be able to keep getting STAR+PLUS HCBS program services during the fair hearings process. If you want to keep getting STAR+PLUS HCBS program services during the fair hearings process, you must appeal within **10 business days** from the date at the top of Form H2065-D or by the date your services will end, whichever is later.
- 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.

### **Rules used to make this decision**

To be eligible for the STAR+PLUS HCBS program, you must meet the medical necessity criteria for a nursing facility level of care. This means you must:

- Have a medical condition serious enough that your 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 you must be:

- Ordered by a doctor.
- Needed because of your 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 the STAR+PLUS HCBS program in Title 1 of the Texas Administrative Code at Section 353.1153 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.

### Your Services During the Fair Hearings Process

If you want your services to continue during the fair hearings process, you must appeal within **10 business days** of the date on Form H2065-D or by the date your services end, whichever is later.

Check the box on the form (Page 4) or tell us you want your services to continue over the phone or in-person.

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](https://hhs.texas.gov/managed-care-help).

## Fair Hearing Request Form for STAR+PLUS HCBS Program 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, right hand corner of Form H2065-D, Notification of Managed Care Program Services. You can also request a fair hearing by calling the phone number on Form H2065-D.

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

You can request to keep getting STAR+PLUS HCBS program services during the fair hearings process. If you want to keep getting STAR+PLUS HCBS program services during the fair hearings process, you must appeal within **10 business days** of the date at the top of Form H2065-D or by the date your services will end, whichever is later.

### Member Information

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

### Authorized Representative (AR) Information

Last Name:	First Name:
Phone Number:	
Address:	

### Request a Fair Hearing

<input type="checkbox"/> I want a fair hearing.	
<input type="checkbox"/> I want my STAR+PLUS HCBS program services to continue during the fair hearings process.	
_____ Signature – Member, Parent or Guardian, or AR	_____ Date

## **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 and transferred effective Jan. 15, 2021, as published in the Texas Register Dec. 11, 2020, 45 TexReg 8871.

---