**Appendix XVII, MDCP Eligibility TAC for All Denials and Terminations**

9-2021

**1 Texas Administrative Code §353.1155 Medically Dependent Children Program** **(MDCP)**

(a) This section applies to the Medically Dependent Children Program (MDCP) services provided under a Medicaid managed care program. The rules under 40 TAC, Chapter 51 (relating to Medically Dependent Children Program) do not apply to MDCP services provided under a Medicaid managed care program.

(b) The MCO assesses an individual's eligibility for MDCP.

(1) To be eligible for MDCP, an individual must:

(A) be under 21 years of age;

(B) reside in Texas;

(C) meet the level-of-care criteria for medical necessity for nursing facility care as determined by HHSC;

(D) have an unmet need for support in the community that can be met through one or more MDCP service;

(E) choose MDCP as an alternative to nursing facility services, as described in 42 CFR §441.302(d);

(F) not be enrolled in another Medicaid HCBS waiver program approved by CMS;

(G) if the individual is under 18 years of age, reside:

(i) with a family member; or

(ii) in a foster home that includes no more than four children unrelated to the individual; and

(H) be determined by HHSC to be financially eligible for Medicaid under Chapter 358 of this title (relating to Medicaid Eligibility for the Elderly and People with Disabilities), Chapter 360 of this title (relating to Medicaid Buy-In Program), or Chapter 361 of this title (relating to Medicaid Buy-In for Children Program).

(2) An individual receiving Medicaid nursing facility services is approved for MDCP if the individual requests services while residing in the nursing facility and meets eligibility criteria listed in paragraph (1) of this subsection. If the individual is discharged from the nursing facility for a community setting before being determined eligible for Medicaid nursing facility services and MDCP, the individual is denied immediate enrollment in the program.

(c) HHSC maintains a statewide interest list of individuals interested in receiving services through MDCP.

(1) A person may request an individual's name be added to the MDCP interest list by:

(A) calling HHSC toll-free 1-877-438-5658;

(B) submitting a written request to HHSC; or

(C) generating a referral through the YourTexasBenefits.com, Find Support Services screening and referral tool.

(2) HHSC removes an individual's name from the MDCP interest list if:

(A) the individual is deceased;

(B) the individual is assessed for the program and determined to be ineligible;

(C) the individual, medical consenter, or LAR requests in writing that the individual's name be removed from the interest list; or

(D) the individual moves out of Texas, unless the individual is a military family member living outside of Texas as described in Texas Government Code §531.0931:

(i) while the military member is on active duty; or

(ii) for less than one year after the former military member's active duty ends.

(3) An individual may request to be placed at the end of the interest list immediately following a determination of ineligibility.

(d) The MCO develops a person-centered individual service plan (ISP) for each individual, and all applicable documentation, as described in the STAR Kids Handbook and the Uniform Managed Care Manual (UMCM).

(1) The ISP must:

(A) include services described in the waiver approved by CMS;

(B) include services necessary to protect the individual's health and welfare in the community;

(C) include services that supplement rather than supplant the individual's natural supports and other non-Medicaid supports and services for which the individual may be eligible;

(D) include services designed to prevent the individual's admission to an institution;

(E) include the most appropriate type and amount of services to meet the individual's needs in the community;

(F) be reviewed and revised if an individual's needs or natural supports change or at the request of the individual or their legally authorized representative; and

(G) be cost effective.

(2) If an individual's ISP exceeds 50 percent of the cost of the individual's level of care in a nursing facility to safely serve the individual's needs in the community, HHSC must review the circumstances and, when approved, provide funds through general revenue.

(e) MCOs are responsible for conducting reassessments and ISP development for their enrollees' continued eligibility for MDCP, in accordance with the policies and procedures outlined in the STAR Kids Handbook, UMCM, or materials designated by HHSC and in accordance with the timeframes outlined in the MCO's contract.

(f) MCOs are responsible for authorizing a provider of the individual's choosing to deliver services outlined in an individual's ISP.

(g) Individuals participating in MDCP have the same rights and responsibilities as any individual enrolled in managed care, as described in Subchapter C of this title (relating to Member Bill of Rights and Responsibilities), including the right to appeal a decision made by HHSC or an MCO and the right to a fair hearing, as described in Chapter 357 of this title (relating to Hearings).

(h) HHSC conducts utilization reviews of MCOs providing MDCP services.

Source Note: The provisions of this §353.1155 adopted to be effective November 1, 2016, 41 TexReg 8265.