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SB 1207 Overview

Texas Senate Bill (SB) 1207, [Section 531.0601](#), from the 86th Legislature, Regular Session, in 2019 required the Texas Health and Human Services Commission (HHSC) to provide members enrolled in the Medically Dependent Children Program (MDCP) with the option to be placed back on a Medicaid waiver's interest list (IL) if the members were terminated from MDCP due to:

- no longer meeting the medical necessity (MN) determination for a nursing facility (NF) level of care (LOC); or
- aging out of the program.

Member Options

The IL options available to members will depend on whether the members were terminated from MDCP due to a loss of MN at reassessment or aging out of the program.

- **First position** – First position is an option available to members denied MN at reassessment. Members who choose first position can move to the top of the MDCP IL to be assessed again when an IL slot becomes available. Members who age out of MDCP or applicants denied MN may not select first position. Members can only pursue the first position option one time.
- **Advanced placement** – Advanced placement is an option available to members denied MN at reassessment or who age out of MDCP. These members have the option to move up on another 1915(c) Medicaid waiver program's IL. Members may only advance on another 1915(c) Medicaid waiver program's IL using their MDCP request date if they are currently or have ever been on the IL of the program requested. Only members who age out of MDCP will receive this option.
- **A state fair hearing** – Members can request or decline a state fair hearing with or without requesting the first position and/or advanced placement options.

Member Selection Timeframes and Processing

Members must request first position and/or advanced placement on or before the **120th day** from the Date of Notice on [Form H2065-D, Notification of Managed Care Program Services](#). Program Support Unit (PSU) staff must obtain supervisor approval for any request that is beyond **120 days**.

Overview of Scenarios

There are two general IL request scenario groups. Each scenario group will receive a different denial attachment when Form H2065-D is mailed to members or their legally authorized representative (LAR) as notification of the MDCP termination. These groups include:

- 1) **Members Denied MN at Reassessment** - These members will receive Form H2065-D and [Appendix XXIV, MDCP Medical Necessity Denial Attachment – Members](#). Members in this group have the option for first position, advanced placement and a state fair hearing.
- 2) **Members Aging Out of MDCP** – These members will receive Form H2065-D and [Appendix XXIX, Fair Hearing and Interest List Options for Aging Out of MDCP](#). Members in this group have the option for advanced placement and a state fair hearing only.

Scenario 1: Members Denied MN at Reassessment

Members denied MN at reassessment must be terminated from MDCP following the actions found in [6300.5, Medical Necessity and Level of Care](#). PSU staff will mail Form H2065-D and Appendix XXIV to the member or LAR as notification of the MDCP termination.

First position may be requested at any time, with or without a state fair hearing, on or before the **120th day** from the Date of Notice on Form H2065-D by members denied MN at reassessment. The request for first position:

- can be verbal or in writing, if the member also requests a state fair hearing; or
- must be made in writing if the member declines a state fair hearing.

Advanced placement may be requested at any time on or before the **120th day** from the Date of Notice on Form H2065-D by members denied MN at reassessment. The request for advanced placement can be:

- verbal or in writing; and
- with or without a state fair hearing.

A sustained fair hearing decision must be rendered prior to PSU staff processing the first position or advanced placement option, if the member selects a state fair hearing, first position and/or advanced placement.

Scenario 1A: Member requests a state fair hearing, but declines first position and advanced placement

MDCP benefits must continue until the hearings officer issues a decision, if a member or LAR files a state fair hearing requesting continued MDCP benefits:

- within the adverse action notification period of the MDCP termination; or
- by the effective date of the action pending the state fair hearing.

PSU staff must complete the actions in the following sections within **two business days** from receiving the request for a state fair hearing, if the member qualifies for continued benefits:

- [7221.1, Medical Necessity Denial by Texas Medicaid & Healthcare Partnership](#); and
- [7222.1, Continuation of Medically Dependent Children Program During a State Fair Hearing](#).

A member who does not request a state fair hearing with continued benefits before the effective date of the denial will not receive continued MDCP benefits during the state fair hearing.

PSU staff must complete the actions in the following sections within **two business days** from receiving the request for a state fair hearing, if the member does not qualify for continued benefits:

- [7221.1](#); and
- [7222.2, Discontinuation of Medically Dependent Children Program Services During a State Fair Hearing](#).

PSU staff will receive an alert through the Texas Integrated Eligibility Redesign System (TIERS) of the fair hearing decision.

PSU staff must complete the actions in the following sections within **two business days** from receiving notification of the hearings officer's decision to:

- sustain the MN denial:
 - [7510.2, Sustained State Fair Hearing Decision for Members With Continued MDCP Benefits](#); or
 - [7510.3, Sustained State Fair Hearing Decision for Members Without Continued MDCP Benefits](#); or
- reverse the MN denial: [7520, Reversed State Fair Hearing Decision](#).

Scenario 1B: Member requests a state fair hearing and selects first position and/or advanced placement

PSU staff must complete the actions in the following sections within **two business days** from receiving the request for a state fair hearing, first position and/or advanced placement, if the member qualifies for continued benefits:

- [7221.1](#); and
- [7222.1](#).

PSU staff must complete the actions in the following sections within **two business days** from receiving the request for a state fair hearing, first position and/or advanced placement, if the member does not qualify for continued benefits:

- [7221.1](#); and
- [7222.2](#).

PSU staff will receive an alert through TIERS of the fair hearing decision.

PSU staff must complete the actions in the following sections within **two business days** from receiving notification of the hearings officer's decision to sustain the MN denial:

- [7510.2, Sustained State Fair Hearing Decision for Members With Continued MDCP Benefits](#); or
- [7510.3, Sustained State Fair Hearing Decision for Members Without Continued MDCP Benefits](#);
- [7510.4, First Position and Advanced Placement Requests After a Sustained MN Denial](#), for information on processing the first position and/or advanced placement requests; and
- [5400.2, First Position and Advanced Placement Assignments Following a Sustained MN Denial](#), for information on creating first position and/or advanced placement assignments.

PSU staff must complete the actions in [7520, Reversed State Fair Hearing Decision](#), within **two business days** from receiving notification of the hearings officer's decision to reverse the MN denial.

Scenario 1C: Member declines a state fair hearing, but selects first position with or without also selecting advanced placement

A member or their LAR must submit a written request declining a state fair hearing to pursue first position any time on or before the **120th day** from the Date of Notice on Form H2065-D. PSU staff must receive the written request to decline the state fair hearing before processing the first position request.

A member does not have to decline a state fair hearing in writing to select advanced placement. The member can select advanced placement any time on or before the **120th day** before the Date of Notice on Form H2065-D.

PSU staff must refer to section [5400.1, Advanced Placement Assignments and First Position Assignments Without a State Fair Hearing](#), within **two business days** of receiving the request to decline the state fair hearing and pursue first position with or without also selecting advanced placement.

Scenario 1D: Member declines a state fair hearing and first position, but selects advanced placement

A member can select advanced placement any time on or before the **120th day** before the Date of Notice on Form H2065-D. The request for advanced placement can be verbal or in writing.

PSU staff must refer to [5400.1, Advanced Placement Assignments and First Position Assignments Without a State Fair Hearing](#), within **two business days** of receiving the request to decline the state fair hearing and first position and pursue advanced placement.

Scenario 2: Members Aging Out of MDCP

Members who are aging out of MDCP must be terminated from MDCP following the actions found in [6300.9, No Longer Meets the Age Requirement for MDCP](#). PSU staff will mail Form H2065-D and Appendix XXIX to the member or LAR as notification of the MDCP termination.

Members aging out of MDCP can select advanced placement only. These members may request advanced placement at any time on or before the **120th day** from the Date of Notice on Form H2065-D. The request for advanced placement can be:

- verbal or in writing; and
- with or without a state fair hearing.

The fair hearing decision must be rendered prior to PSU processing the advanced placement option, if the member selects a state fair hearing and advanced placement.

Scenario 2A: Member selects advanced placement

Members do not have to decline a state fair hearing to select advanced placement. The member can select advanced placement any time on or before the **120th day** before the Date of Notice on Form H2065-D. The request for advanced placement can be:

- verbal or in writing; and
- with or without a state fair hearing.

PSU staff must refer to [5400.1, Advanced Placement Assignments and First Position Assignments Without a State Fair Hearing](#), within **two business days** of receiving the request to decline the state fair hearing and first position and to pursue advanced placement.

Scenario 2B: Member declines advanced placement

PSU staff must:

- document the member's refusal of advanced placement in the Texas Health and Human Services (HHS) Enterprise Administrative Report and Tracking System (HEART) case record;
- upload all applicable emails, screenshots and documents to the HEART case record; and
- close the HEART case record.

Requests for First Position and Advanced Placement Beyond 120 days

PSU staff must receive PSU supervisor approval before creating a HEART case record for a first position or advanced placement requests received **after 120 days** from the Date of Notice on Form H2065-D.

PSU staff must complete the actions in [5400.3, First Position and Advanced Placement Assignments Beyond 120 Days](#), within **two business days** from receiving a request for first position and advanced placement **after 120 days** from the Date of Notice on Form H2065-D.