Texas Health and Human Services Commission

Cecile Erwin Young
*Executive Commissioner*

**MEMORANDUM**

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| TO: | Managed Care Contracts and Oversight<br>Enrollment Resolution Services<br>Program Support Unit<br>Program Enrollment and Support<br>Utilization Review<br>Office of the Medical Director<br>Managed Care Organizations |
| FROM: | Office of Policy<br>Medicaid and CHIP Services |
| SUBJECT: | Process for STAR+PLUS Home and Community Based Services Program Applicants and Members Who May Be Considered Medically Fragile |

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| ISSUANCE DATE: | **04/18/2024** | **HHSC:** | **24-04-001** |
| EFFECTIVE DATE: | **04/18/2024** | | |

This memorandum notifies STAR+PLUS managed care organizations (MCOs) and Medicare-Medicaid Plans (MMPs) about the medically fragile group eligibility process for STAR+PLUS Home and Community Based Services (HCBS) applicants and members who may be considered medically fragile. The policy in this memorandum is effective for all STAR+PLUS HCBS individual service plans (ISPs) with a date of July 1, 2024 or later.

Hereafter in this memorandum, “MCO” refers to STAR+PLUS MCOs and MMPs.

**Medically Fragile Group**

The medically fragile group is designed to serve STAR+PLUS HCBS program applicants or members whose needs exceed the STAR+PLUS HCBS Resource Utilization Group (RUG) cost limit, which is 202 percent of the annualized cost of care in a nursing facility. The Texas Health and Human Services Commission (HHSC) will use the medically fragile group criteria process to approve STAR+PLUS HCBS program eligibility for applicants and members whose needs exceed their RUG cost limit and who meet the medically fragile eligibility criteria when reviewed by HHSC’s Office of the Medical Director (OMD). Members who are approved for the STAR+PLUS HCBS program because they are considered medically fragile must be reassessed by OMD each year for the medically fragile group.

There are 150 medically fragile group slots available for STAR+PLUS HCBS members. After these medically fragile group slots are filled, if an applicant's or member's initial or annual reassessment ISP cost exceeds 202 percent of the RUG cost limit, MCOs must use the general revenue (GR) process described in the STAR+PLUS Handbook, Section 3421.6, Individual Service Plan Cost Exceeds 202 Percent of the Resource Utilization Group Cost Limit.

**Medically Fragile Group Eligibility Criteria Requirements**

To be eligible for the medically fragile group, HHSC must determine if the applicant or member meets predetermined clinical criteria, which are that the applicant or member must:

- have a traumatic or congenital physical impairment or have a complex debilitating illness or disability;
- require substantial skilled nursing medical care over a 24-hour period; and
- require the presence of a licensed nurse to provide regular evaluation and intervention.

Detailed criteria are listed on the Medically Fragile Group Criteria Certification Form.

The MCO must not utilize the request for the medically fragile group if the MCO is able to develop an ISP within the RUG cost limit that protects the applicant's or member's health and safety but the applicant, member or legally authorized representative refuses the plan.

**Medically Fragile Group Process**

The MCO must complete the following requirements for applicants and members to be considered for a medically fragile group slot:

- If, at the initial or annual assessment, the MCO develops an ISP that exceeds the assigned RUG cost limit, the MCO must complete the documents listed below, ensure the MCO medical director has reviewed and approved the documents, and upload the documents to the "DELIV" folder within the MCO "PHI" folder in MCOHub:

    - Medically Fragile Group Criteria Certification Form;
    - Medical Necessity and Level of Care (MN/LOC) Assessment;
    - Form H1700-1, Individual Service Plan;
    - Form H1700-2, Individual Service Plan – Addendum;
    - Form H1700-3, Individual Service Plan – Signature Page;
    - Form H2060, Needs Assessment Questionnaire and Task/Hour Guide, or Form H6516, Community First Choice Assessment, as appropriate;
    - Form H2060-A, Addendum to Form H2060, if applicable;
    - Form H2060-B, Needs Assessment Addendum;
    - Form 1024, Individual Status Summary;

- Form 1747, Acknowledgement of Nursing Requirements, (for individuals who have elected nursing through Consumer Directed Services (CDS) - all nurses providing care must have up-to-date forms);
- Form 485, Centers for Medicare and Medicaid Services (CMS) Home Health Certification and Plan of Care, or Plan of Care with the same components contained in Form 485, effective during the time of the nursing notes provided for review (the plan of care CDS nurses develop must have signatures of the physician and nurse, and the effective dates of plan);
- Two weeks of nursing notes, including medication administration records, seizure, ventilator and suction logs, as applicable, that correspond to the MN/LOC lookback period;
- Primary care or specialty physician office visit notes that:
  - document the current medical condition;
  - describe the needs of the applicant or member and supports the MCO determination that he or she requires care exceeding the RUG cost limit;
  - are dated within the last 12 months beginning from the start of the ISP date;
  - have been reviewed and signed contemporaneously by a specialist if the visit was conducted by an advanced practice nurse or physician assistant; and
  - are not a patient or after visit summary; and
- Current documentation supporting legally authorized representation status, such as legal guardianship, medical power of attorney, or durable power of attorney paperwork, if applicable.

- The MCO must notify HHSC's High Needs Utilization Review (UR) staff of the submission by email to HHSC_UR_High_Needs_CCR@hhsc.state.tx.us.
  - The email subject line should read: Medically Fragile Group (Initial/Annual) Review Request Submitted to MCOHub.

- When the MCO notifies UR staff, the MCO must electronically submit the Form H1700-1, Individual Service Plan, in the Long Term Care Online Portal, showing the ISP is over the RUG cost limit. When submitting the ISP, the MCO must select the "Over Annual Cost Limit Override with GR Approval" checkbox. The MCO must also submit Form H2067-MC, Managed Care Programs Communications, notifying Program Support Unit (PSU) staff they have submitted a request to UR staff to consider the applicant or member for a medically fragile group slot.

- The MCOs must submit the required documentation for consideration of a medically fragile group slot no later than 45 days:
  - after the MCO's receipt of Form H3676, Managed Care Pre-Enrollment Assessment Authorization;

- after the identified need or request for STAR+PLUS HCBS for a member who is enrolled in STAR+PLUS and has experienced a change in condition;
- prior to the ISP effective date for members enrolled in STAR+PLUS HCBS and who have experienced a change in condition at the time of his or her reassessment; or
- prior to the ISP effective date for members enrolled in STAR+PLUS HCBS who are already approved to use a medically fragile group slot at the time of his or her reassessment.

When the OMD makes a determination of whether the applicant or member is eligible for a medically fragile group slot, they notify PSU staff. When PSU staff receive the determination, they will notify the applicant or member of STAR+PLUS HCBS program eligibility on Form H2065-D, Notification of Managed Care Program Services, and upload Form H2065-D in MCOHub, which notifies the MCO of the decision.

If HHSC determines the applicant or member does not meet the criteria for a medically fragile group slot, the member will not be eligible for the STAR+PLUS HCBS program because the ISP is over the RUG cost limit.

If an applicant or member is denied STAR+PLUS HCBS program services, they can request a State Fair Hearing. If the applicant or member requests a State Fair Hearing and the officer upholds the denial, the member will not be eligible for the STAR+PLUS HCBS program because the ISP is over the RUG cost limit. If the officer reverses the denial, HHSC will assess if there is a medically fragile slot available for the applicant or member. If the medically fragile group slots are filled, MCOs must use the general revenue (GR) process described in the STAR+PLUS Handbook, Section 3421.6, Individual Service Plan Cost Exceeds 202 Percent of the Resource Utilization Group Cost Limit. The MCO cannot submit a revision to bring the applicant’s or member’s ISP under the RUG cost limit after a denial for the ISP year.

## Change In Condition and High Needs Status for Ongoing Members

If a change in condition causes a member to exceed the STAR+PLUS HCBS RUG cost limit in the middle of the ISP year, the MCO may not stop providing services to a STAR+PLUS HCBS member and may not apply to exceed the RUG cost limit mid-ISP year under the medically fragile group process. If a member exceeds their STAR+PLUS HCBS RUG cost limit in the middle of the ISP year, the MCO must consider the member to have high needs status and follow the high needs status requirements for ongoing members described in the STAR+PLUS Handbook, Section 3532, Determination of High Needs Status for Ongoing Members.

If it appears the subsequent ISP will exceed the RUG cost limit and efforts to explore other alternatives to protect health and safety are not successful, the MCO

can follow the process for submitting an initial request for consideration for a medically fragile group slot.

## Resources

STAR+PLUS Handbook Policy Updates:
https://www.hhs.texas.gov/handbooks/starplus-handbook/hhsc-policy-updates

**Contact:** Managed_Care_Initiatives@hhs.texas.gov

**Attachments:**

Medically Fragile Group Criteria Certification Form

Medically Fragile Group Criteria Certification Form, Instructions