



Quick Guide

- To Consider before preparing**
 - Does your child meet criteria for a nursing facility at the time of the assessment? If so, then your child meets the criteria for MDCP.

- Preparing documentation for the fair hearing:**
 - Ask your child's doctors/specialists to draft a letter of medical necessity.
 - Ask the school nurse for a letter of support if you think it will help.
 - Consider getting recent medical records from relevant doctors, and ER or hospital visits.
 - Review the TMHP Evidence Packet sent to you (Use the Review Fields document to focus on the MN-REQ sections).
 - Request all past MDCP assessment from Open Records at HHSC.
 - Request a reschedule of your child's fair hearing if you need more time to gather records and prepare.

- Preparing a fair hearing packet:**
 - If possible, use sample cover letter and table of contents.
 - Try to be organized and neat. Number the pages of the completed packet.
 - Consider including the following documents (see documents in MDCP technical assistance folder):
 - Brief Waiver Description from the Waiver application the state had to complete for the MDCP waiver
 - Star Kids handbook provisions
 - Texas Occupation Code Definition of Professional Nursing
 - Title 40 Texas Administrative Code 19.2401
 - Past Assessments you may receive from TMHP, if helpful
 - 2014 DADS Guidance to TMHP Re: Parents legal duties and medical necessity criteria for MDCP
 - Texas Administrative Code rules on fair hearings
 - Mail a copy of the completed packet to the hearings officer and TMHP **at least 7 days prior to fair hearing.**

Fair Hearing

- Call into the fair hearing at the scheduled time with the toll-free number and hearing code provided.
- The hearing officer will identify participants on the call, explain the hearing procedures, clarify the reason for the hearing, and place everyone under oath.
- TMHP will present their case first.
- After TMHP is done with their presentation, you may ask the TMHP representative questions (See sample cross examination questions).
- After the TMHP presentation, it is your turn to present your child's case.

Presenting your child's case:

- You may begin with a short opening. Use it as an opportunity to preview the evidence you will provide and what you are going to discuss.
- Provide a brief medical history for your child.
- Describe how your child got on MDCP and reference the approval of past MDCP assessments.
- Talk about the Professional Nursing Definition in the Texas Occupation Code, particularly parts (A) through (C).
- Note that TMHP has been told they should not consider duties a parent is legally required to perform when considering whether individuals have a need for skilled nursing (reference 2014 DADS Guidance to TMHP).
- Discuss or read portions of letters of medical necessity or medical records.
- Describe the consequences of your child losing MDCP.

Closing the fair hearing

- Ask to make a closing statement. Include the following:
 - TMHP didn't prove their case as required by law
 - Summarize why TMHP is wrong in their denial decision
 - Ask the hearings officer to rule in your child's favor and provide why
- At the end of the fair hearing the hearings officer will usually state a deadline for their decision. It is typically 30-45 days after the fair hearing.
- If you were waiting on the receipt of documents that you may have addressed in your testimony, ask that the fair hearing record be kept open, so you can submit those documents to the fair hearings officer.