

## Medicaid Disqualifying Transfer: *Hardship Provisions*

All or part of a disqualifying transfer penalty period may be waived if the person can show that an undue hardship exists for him or her. A **person may apply for an exception** to the transfer penalty period, and must provide proof to support that claim, within 90 days of being notified of the transfer penalty, or within 90 days of a change that may now cause a hardship.

The facility in which a person lives may apply for an exception to the transfer penalty on behalf of the person if they have the consent of the person or his or her personal representative.

**An undue hardship exception may be requested by contacting a county social services office.** A hardship request form with instructions can be found on the Web at <http://www.nd.gov/dhs/info/pubs/docs/medicaid/form-medicad-hardship-provision-application.pdf>. The form and proof need to be provided to the county social services office.

**An undue hardship exists only if the person proves that all of the following conditions are met:**

- Applying the penalty period would deprive the person of medical care such that the person's health or life would be endangered; or deprive the individual of food, clothing, shelter, or other necessities of life.
- The transfer was not made after a previous request for a hardship exception;
- All lawful means to recover the transferred assets or income, or the value of the transferred assets or income have been exhausted;
- The provider or facility who would provide care has no legal options, or has exhausted all legal options, against the transferee of the assets or income under the Uniform Fraudulent Transfers Act, or any similar law; and
- The remaining available assets of the person and his or her spouse are less than the Medicaid asset limit. The **value of all assets are counted except:**
  - The home; however, if the equity in the home is more than \$125,000, the extra equity is counted as an asset;
  - Exempt personal effects, clothing, household goods, and furniture;
  - One motor vehicle (if the vehicle is mainly used to serve the needs of the person, spouse, or their minor children who live with them), and
  - Funds for burial of \$6,000 or less for the person and his or her spouse.

**If Undue Hardship Exception Request is Denied:** The affected person may request an appeal to the N.D. Department of Human Services.

**For information:** Contact your local county social service office. Address and phone numbers are online at [www.nd.gov/dhs/locations/countysocialserv/index.html](http://www.nd.gov/dhs/locations/countysocialserv/index.html).