

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of Colorado

The agency does not apply the trust provisions in any case in which the agency determines that such application would work an undue hardship.

The following criteria are applied.

1. The period of ineligibility resulting from the imposition of the transfer or the trust provisions may be waived if denial of eligibility would create an undue hardship. Undue hardship can be established only if all of the following conditions are met:
  - a. The individual is otherwise eligible;
  - b. The individual is unable to obtain medical care without the receipt of Medicaid benefits;
  - c. The individual is experiencing an emergency, life threatening episode and without medical care is in imminent danger of death, or the individual would be deprived of food, shelter, clothing or other necessities of life; and
  - d. The individual must also produce evidence to prove that the assets have been irretrievably lost, and that all reasonable avenues of legal recourse to regain possession of them have been exhausted.
2. Undue hardship shall not exist when the application of the trust or transfer rules merely causes the individual inconvenience or when such application might restrict his or her lifestyle but would not put him or her at risk of serious deprivation.
3. Notice of an undue hardship exception shall be given to the applicant or client, and a determination of whether an undue hardship waiver will be granted shall be given in a timely manner. An adverse determination may be appealed in accordance with the appeal process as set forth in Recipients Appeals Rule. 10 Colorado Code of Regulations 2505-10, Section 8.057.

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