

# **HARDSHIP GUIDELINES**

## **Sec.78-17-6. Estates Subject to Delayed Recovery**

**6.1.** No recovery shall be made against a Medicaid recipient as long as:

**6.1.1.** The spouse of the recipient is living on real property in which the recipient has a property interest;

**6.1.2.** The real property in which the recipient has a property interest is the lawful residence of the recipient's minor child;

**6.1.3.** The real property in which the recipient has a property interest is the lawful residence of the recipient's blind or permanently and totally disabled adult child; or

**6.1.4.** The recipient's sibling:

**6.1.4 (a)** Has an equity interest in the home;

**6.1.4 (b)** Was residing on the real property for a period of at least one (1) year immediately before the date of the recipient's admission to a nursing facility or receipt of home and community based services; and

**6.1.4 (c)** Continued to live on the real property after the recipient's death or determination that the recipient is permanently institutionalized.

**6.2** Recovery from these recipient's estates may occur when the condition upon which the delay was based no longer exists.

**6.3** If property subject to delayed recovery is sold, only that portion of the proceeds which represents the recipient's interest in the property is subject to a recovery lien.

## **Sec. 78-17-7. Estates Not Subject to Recovery**

**7.1** The following situations are considered undue hardship situations and no lien shall be placed or recovery made on the estates of Medicaid recipients when the following evidence is presented to the Bureau:

**7.1.1.** An adult child resided continuously in the home for a two year period of time immediately prior to the date the parent became a recipient and continued to reside in the home until the parent's death and if that child can establish that he/she provided care to the recipient which permitted the parent to remain at home without Medicaid assistance for at least that two year period;

**7.1.2.** An adult child maintains continuous employment in the family business for a period of time beginning at least three (3) years before the parent became a recipient until the time of the parent's death and if the property, which would otherwise be subject to an estate recovery lien, is an integral part of the business and is required for the continued viability of the business; or

**7.1.3.** The secretary determines that it is not cost effective for the Department of Health and Human Resources (DHHR) to pursue recovery from the estate.

**7.2** The following situations shall be considered undue hardship, which upon presentation of proof, qualify for limited exclusion from estate recovery:

**7.2.1.** An adult child, regardless of whether he/she was living in the family home, is able to present proof of monetary support to his/her parent for medical care and other necessities prior to the date the parent became a recipient. Such support shall reduce the medical assistance lien on a dollar for dollar basis;

**7.2.2.** An adult grandchild whose parents are both deceased prior to the date the grandparent became a recipient is able to present proof of monetary support to his/her grandparent for medical care and other necessities prior to the date the grandparent became a recipient. Such support shall reduce the medical assistance lien on a dollar for dollar basis; or

**7.2.3.** A sibling is able to present proof of monetary support to his/her sibling for medical care and other necessities prior to the date the sibling became a recipient. Such support shall reduce the medical assistance lien on a dollar for dollar basis.

**7.3** An application for an undue hardship waiver to exempt wedding rings from the recipient's estate shall be granted without presentation of evidence.