

Medicaid Disqualifying Transfer: Hardship Provision

If a person has a disqualifying transfer and cannot pay for long-term care services, they can apply for a Medicaid disqualifying transfer hardship provision.

All or part of a disqualifying transfer penalty period may be waived if the person can show that an undue hardship exists. A person may apply for an exception to the transfer penalty period, and must provide proof to support that exception, 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 also apply for an exception to the transfer penalty on behalf of the person if they have their consent or that of their personal representative.

An undue hardship exception may be requested by contacting a Human Service Zone office. A hardship request form with instructions is online at www.nd.gov/dhs/info/pubs/docs/medicaid/form-medicaid-hardship-provision-application.pdf.

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 food, clothing, shelter, or other necessities of life or medical care that would endanger the person's health or 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 is 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 an
 - Irrevocable Itemized Burial Contract.

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



For more information, contact your Human Service Zone office. Contact information is online at www.nd.gov/dhs/locations/countysocialserv/.