

Estate Recovery Hardship Waiver – A Short Guide

The Department of Healthcare and Family Services (HFS) will waive, in whole or in part, its claim against an estate when recovery would cause an undue hardship for a legatee or heir. A hardship applicant cannot qualify for a hardship waiver if they are not an heir or legatee (named in the Will).

An undue hardship does not exist solely because recovery would prevent applicants from receiving an inheritance or when the hardship was created by using estate planning methods in order to avoid estate recovery. In order to complete the review of the hardship application, supporting documents will need to be provided. Failure to provide the required information will result in a denial of the waiver.

A separate application must be submitted for each person requesting hardship consideration. The hardship waiver applicant must complete the appropriate section(s) of the application and return it with supporting documents within 60 calendar days from the date stated on the Notice of Intent to File a Claim Against the Estate or Estate Recovery accompanying the application. Applications returned later than 60 days from this date will not be reviewed.

If additional information is needed after the application has been timely submitted, the documentation must be returned within 45 calendar days from the date on which the information was requested. If the applicant needs to ask for an extension, please contact our office at 217-785-2711. If we are not contacted for an extension and the documentation is not received within 45 calendar days, it will not be considered.

A letter will be sent to the applicant with an explanation of the decision. If the request is denied, the applicant has 60 calendar days to submit a written request for review of the denial.

The criteria for a hardship waiver (89 ILAC 102.210) are summarized below:

1. The estate property has been the site of a family business for at least 12 months before the death of the decedent; is the primary income-producing asset of the heirs; produces 50% or more of their livelihood; and recovery by the state would result in the heirs losing their primary source of income; **or**
2. The heirs would become eligible or remain eligible for public and/or medical assistance if the state were to recover the claim; **or**
3. The heirs would be able to discontinue public and/or medical assistance if the state did not recover the claim.

The completed application form, supporting documents and written requests for review of a denial can be mailed to the following:

**Illinois Department of Healthcare and Family Services
Bureau of Collections - Technical Recovery Section
P.O. Box 19174
Springfield, Illinois 62794-9174**