

Undue Hardship Waiver Criteria

- (1) The Department may waive enforcement of any estate recovery claim if it finds that enforcing the claim would result in an undue hardship to the beneficiaries, heirs, or family members of the deceased client claiming entitlement to receive the assets of the deceased client.
- (2) In determining whether an undue hardship exists, the Department may consider the following criteria:
 - (a) Whether enforcement of the claim would cause the waiver applicant to become eligible for *assistance*; and
 - (b) Whether enforcement of the claim would cause the waiver applicant, who would otherwise be eligible for *assistance*, to become homeless.
- (3) Waiver of an estate recovery claim may include, but is not limited to, the following:
 - (a) Forgiveness of all or part of the claim, or any other relief the Department deems fit; or
 - (b) Taking a mortgage or trust deed in lieu of enforcement of the claim.
- (4) No waiver will be granted if the Department finds that the undue hardship was created by resort to estate planning methods by which the waiver applicant or deceased client divested, transferred or otherwise encumbered assets, in whole or in part, to avoid estate recovery.
- (5) No waiver will be granted if the Department finds that the undue hardship will not be remedied by the grant of the waiver.

Statutory/Other Authority: ORS [409.050](#), [411.060](#), [411.070](#), [413.042](#), [416.340](#), 2013 Or Laws Ch 14 Section 10

Statutes/Other Implemented: ORS [416.340](#), 2013 Or Laws Ch 14 Section 10

There are no previous rules dated January 1, 2014 or later.

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