



Notification of Right to Request an Undue Hardship Waiver

Date: _____

Case Name: _____

Address: _____

Medicaid ID Number: _____

Case Number: _____

- ☐ It has been determined that you are ineligible for payment of institutional level of care services due to excessive home equity in the amount of _____. The maximum allowable limit is _____.
- ☐ It has been determined that you transferred an asset to a non-permissible trust. Transfer details are as follows: _____
- ☐ It has been determined that on _____ you / your spouse transferred an asset valued at \$ _____. The difference between this value and the amount actually received (\$ _____) is \$ _____. This amount is considered to be the uncompensated value. This results in a penalty period from _____ to _____ during which you are ineligible for institutional level of care services.

Either you did not earlier rebut this decision or, after a rebuttal review, the penalty was reduced to the amount noted above or the rebuttal was denied.

If you are otherwise eligible for an institutional level of care services but were denied payment due solely to one (or more) of the following: excessive home equity, transferring an asset to a non-permissible trust, or a transfer of asset penalty, you have the right to request a waiver of this decision if your basis is that the application of this policy places you at undue hardship. If you were denied payment for another reason, you have the right to request a Fair Hearing. You or your representative, including a member of the institutional facility in which you reside, with your permission, can request a waiver on this basis but the burden of proof to establish undue hardship is the responsibility of your representative or you. A definition of undue hardship and examples of documentation you can provide are on the back of this form.

To request a waiver of your denial of an institutional level of care services based on undue hardship, you must complete the attached DFA-UH-5.

You have until _____, which is 13 calendar days from the date of this notice, to return the Request to your Worker. You may discuss with your Worker what items you may need to provide that may document your claim of undue hardship. If you do not return the DFA-UH-5 by the 13th day, the imposition of the penalty period and/or denial of payment for institutional services will remain. No further notification will occur.

UNDUE HARDSHIP

Undue hardship exists when the excessive home equity, trust, and or transfer of asset penalty policy is applied which results in depriving the individual of medical care to the extent that the individual's health or life would be endangered or his/her food, clothing, shelter or other necessities of life are at severe risk. Undue hardship does not exist when the denial causes the individual inconvenience or may restrict his lifestyle, but would not put him/her at risk of serious deprivation.

You, your representative, or facility staff acting on your behalf, must make a good faith effort to pursue all means, legal and otherwise, to recover the transferred asset or obtain fair market value of the transferred asset. You must also pursue all means available to verify the assets causing ineligibility are inaccessible or unavailable. You must meet all other eligibility requirements for long-term care services. You must have no other sources available to provide medical care, food, clothing, shelter or other necessities of life.

Some documentation that may support your claim includes, but is not limited to:

- A physician's written certification that denial of payment for nursing facility will cause danger to your health or even death; or
- Written statement from persons who have knowledge of your situation (for example: other medical providers, social workers or family members) and claim of undue hardship; and
- Documentation to show that you are pursuing available legal or equitable remedies to recover the income or asset or the fair market value of the income or asset; or
- Documentation that the transferred income or asset(s) are beyond your control and cannot be recovered.

You May Request a Fair Hearing

You have the right to a Fair Hearing due to the denial of your long-term-care services and/or Undue Hardship Waiver request. A Pre-Hearing Conference and/or Fair Hearing Request Form, DFA-FH-1, is enclosed for this purpose. You may also telephone, visit or write your Worker to ask for a Fair Hearing.

The following organization provides free legal services to eligible persons:

Worker: _____ Phone Number: _____

County Office: _____

Address: _____

WORKER: If the individual is ineligible for payment for an institutional level of care services for a reason OTHER than the application of (1) excessive home equity, (2) trust, and/or (3) transfer of asset penalty policies, this form is not to be given to the individual. A reversal of the denial in this instance must be through the Fair Hearing process.