TEXAS
Health and Human Services

Form 5006
November 2013-E

Hardship Waiver Application

As stated in the Notice of Intent to File a Claim Against the Estate, the Medicaid Estate Recovery Program (MERP) will waive, in whole or in part, its claim against the 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 this application and return it **with supporting documents** within 60 calendar days from the date stated on the Texas Department of Aging and Disability Services (DADS) Notice of Intent to File a Claim Against the Estate. **Applications returned later than 60 days from this date will not be reviewed.**

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, as outlined in the Texas Administrative Code, are as follows.

1. The estate property has been the site of a family business, farm or ranch 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 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; **or**
4. The decedent had received Medicaid as the result of being a crime victim; **or**
5. Other compelling reasons.

There is one additional type of hardship that applies just to the homestead:

A homestead waiver is considered when one or more siblings or lineal heirs has gross family income below 300% of the federal poverty guidelines. Up to $100,000 of the homestead value may be exempt from recovery. When there are multiple heirs and not all qualify for this hardship waiver, only the share of a qualifying heir(s) will be waived, not to exceed a total exemption of $100,000.

Mail or fax the completed application form and supporting documents to the contact information below. DADS contracts with Health Management Systems (HMS) Inc. to conduct its estate recovery program operations.

If you have any questions about the claim against the estate or how to complete this form, contact HMS toll-free at 1-800-641-9356.

HMS—Texas MERP
P.O. Box 166889
Irving, Texas 75016-6889
Fax: 214-560-3918

Hardship Waiver Application

It is the applicant's responsibility to provide complete information to DADS. The hardship waiver request will be denied if the applicant does not submit the necessary supporting documentation demonstrating to the state how recovery would result in an undue hardship.

Deceased Medicaid Member Information

All applicants must complete the general information requested on this page. Please fill out this form in blue or black ink.

Decedent's Name (First, Middle, Last)		MERP Case No.
Decedent's Medicaid ID Number	Decedent's Social Security Number	Decedent's Date of Birth (mm/dd/yyy)
List the estate assets that are subject to the probate (**For example**, list real property, bank accounts, cash and automobiles.)		

Heir/Legatee Information

Applicant's Name (First, Middle, Last)		Relationship to Decedent	
Applicant's Primary Residence	City	State	ZIP Code
Area Code and Telephone Number	Social Security Number	Date of Birth (mm/dd/yyyy)	
Applicant's Employer		Employer Area Code and Telephone Number	
Employer Address	City	State	ZIP Code
Spouse's Name (First, Middle, Last)		Spouse's Area Code and Telephone Number	
Spouse's Address (if different from Applicant's)	City	State	ZIP Code
Spouse's Employer		Spouse's Employer Area Code and Telephone Number	
Spouse's Employer Address	City	State	ZIP Code

Answer all of the questions and provide documentation for each of the sections that apply to you.

Section I: Has the estate property been the site of a family business, farm or ranch for at least 12 months before the death of the decedent and the proceeds provide at least 50% of your income?

☐ **Yes** ☐ **No**

1. If yes, give a description of the family business, farm or ranch:

2. When was the property first used as a family business, farm or ranch?..... _____

Include a copy of the following documents with this application. You may also contact HMS for questions related to these documents.

☐ The most recent two years of your filed federal income tax return, including supporting schedules, and any other documents for other income you may receive.

☐ The Will or an Affidavit or Heirship filed in County Court.

Section II: Would you become eligible for public assistance if the claim were collected?

☐ **Yes** ☐ **No**

1. Explain how recovery of the estate claim would cause you to become eligible for public assistance.

2. Does the estate property include a home? ..... ☐ **Yes** ☐ **No**

   If yes, how many homes are on the property? ..... _____

3. Do you currently reside on the property?..... ☐ **Yes** ☐ **No**

   If yes, what length of time have you resided in the home? ..... _____

   If no, what is the address where you live? _____

   Do you own another residence in full or in part?..... ☐ **Yes** ☐ **No**

   If yes, provide documents including proof of ownership. _____

4. List all sources of income and monthly income amounts.

5. List all other assets that you own and their total value.

Include a copy of the following documents with this application. You may also contact HMS for questions related to these documents.

☐ Your most recently filed federal income tax return.

☐ Your last three months of pay stubs and any other income that you receive or expect to receive.

☐ Your bank statements for the past three months.

☐ The Will or an Affidavit of Heirship filed in County Court.

Section III: Would you be able to discontinue public assistance if the claim were not collected?

☐ **Yes** ☐ **No**

1. Explain how you would be able to discontinue public and/or medical assistance if the state did not recover the claim.

2. List the types of public and/or medical assistance you receive (subsidized housing, Medicaid, Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), etc.).

Do you own a residence?..... ☐ **Yes** ☐ **No**

If no, what is the address where you live? _____

Include a copy of the following documents with this application. You may also contact HMS for questions related to these documents.

☐ Benefits Award Letter for public assistance received.

☐ The Will or an Affidavit of Heirship filed in County Court.

Section IV: Did the decedent receive Medicaid as the result of being a crime victim?

☐ **Yes** ☐ **No**

If yes, what happened to cause the decedent to receive medical assistance paid my Medicaid for injuries caused by the crime committed against them? When did this happen? **Note:** ***This section is for information on the deceased Medicaid member.***

Include a copy of the following documents with this application. You may also contact HMS for questions related to these documents.

☐ All medical reports regarding the injuries the decedent received as a result of the crime committed against them.

☐ The police report.

Section V: Other Compelling Reasons

The state has limited discretion to waive recovery of the estate claim for reasons other than those specified in the MERP rule. Two instances in which the state may waive recovery of its estate claim are the following:

1. Are you a sibling or parent who has equity interest in the decedent's home, who was residing there for at least one year before the recipient's date of admission to the institution, who has been residing in the home on a continuous basis, **and**, who has no financial means for an alternative residence? …… ☐ **Yes** ☐ **No**

2. Are you an adult child or grandchild who was residing in the home for at least two years before the recipient's date of admission to the institution, who can prove that he or she provided necessary care to the recipient that delayed institutionalization, **and**, who has no financial means for an alternative residence? …… ☐ **Yes** ☐ **No**

3. Are there other reasons why the recovery of the estate claim would cause an undue hardship for you?..... ☐ **Yes** ☐ **No**

   If yes, explain.

Include a copy of the following documents with this application. You may also contact HMS for questions related to these documents.

☐ Proof of ownership (if applicable), proof of residence in the home for the time frame considered, and a statement from the decedent's physician or social worker indicating the care provided.

☐ The Will or an Affidavit of Heirship filed in County Court.

☐ Your most recently filed federal income tax return and earnings statement for the last three months.

Section VI: Qualification for homestead exemption.

Note: When there are multiple heirs and not all qualify for this hardship waiver, only the share of a qualifying heir(s) will be waived, not to exceed a total exemption of $100,000.

1. How many heirs does the estate have? ..... _____
2. What is the tax appraisal district value of the homestead? ..... _____
3. Is there a mortgage or any other encumbrances on the homestead? ..... ☐ **Yes** ☐ **No**

   If yes, what is the amount of the debt owed? ..... _____

Heirs requesting this waiver must provide the following information about all family members living full time in the household.

Applicant	**Family Members *Residing* in the Household Means:**
If you are an adult age 18 or younger, if legally emancipated, then provide the information to the right.	Applicant Spouse Applicant's biological or legally adopted minor children or stepchildren ***under age 18***
If you are a minor younger than age 18 and not legally emancipated, then provide information to the right.	Applicant Parent(s) or stepparent(s) Minor siblings, including half, step and legally adopted siblings ***under age 18***

Name of Applicant	Relationship to the Decedent	Gross Family Income	Number of Family Members

Family Member Name	Social Security Number	Date of Birth (mm/dd/yyyy)	Relationship to Applicant

*If you need additional space, add information to another sheet and include it with the application.

For consideration of a homestead exemption, include a copy of the following documents with this application. You may also contact HMS for questions related to these documents.

- ☐ The Will or an Affidavit of Heirship filed in County Court.
- ☐ Your last three months of pay stubs, Social security award/benefit letter, and documents for any other income you expect to receive.
- ☐ Your bank statements for the past three months.
- ☐ Your most recent federal income tax return.
- ☐ Your marriage certificate, if applicable.
- ☐ The birth certificate of minor children or adoption papers, if applicable.

I certify that the information I have provided is true and complete to the best of my knowledge. I authorize persons, organizations or other entities having records, concerning my circumstances to furnish such information to the Texas Department of Aging and Disability Services (DADS) or to its contract agent for the estate recovery program. I grant permission to DADS or its contract agent to obtain information that may have a bearing on my eligibility for a hardship waiver.

_____ Signature – Applicant

_____ Date