

10-144 Chapter 101  
MAINECARE BENEFITS MANUAL  
CHAPTER VII

SECTION 5

ESTATE RECOVERY

Established: 9/18/95

Last Updated: 11/30/20

5.07 GENERAL REQUIREMENTS FOR ALL WAIVERS (cont.)

9. Only one waiver application per estate may be submitted to the Department. The applicant may only request one type of waiver per application; and
10. The Department shall determine whether an undue hardship exists within ninety (90) days from the date of the receipt of all information requested. Appropriate notice of the decision will be sent to the person making the request. All decisions regarding the undue hardship waiver will be provided in writing and provide an explanation if the application is denied. The written decision must also provide information about how to appeal the denial to the Department's Administrative Hearings Unit.

B. **Limitations on waiver requests:** An undue hardship does not exist if any of the following are present:

1. The decedent or applicant created the undue hardship by using estate planning, gifting or other methods to divert or shelter assets to avoid estate recovery; or
2. The circumstances indicate that the undue hardship was created for the purposes of avoiding or defeating recovery, including, but not limited to, undue influence on the decedent by the applicant or other family Members;
3. The sole basis for the request is lack of income pursuant to section 5.08(a)(1)(b) below and sale of the real property in the estate will net the applicant more than \$10,000.00. In determining whether the sale of real property will net the applicant more than \$10,000.00, the Department may establish the value of the real property based upon:
  - a. Municipal Tax valuation;
  - b. An appraisal report issued within the past year;
  - c. Real Estate professional's estimate of fair market value;
  - d. Sales history for the real estate; or
  - e. Other information establishing a fair market value for the real property.

5.08 WAIVERS

A. UNDUE HARDSHIP WAIVER

An applicant may request a waiver of a claim under §5.03(B) if enforcement of the claim would cause an undue hardship for the applicant.