

5.08 WAIVERS (cont.)

Eligibility criteria for an undue hardship waiver: The applicant must demonstrate they have a beneficial interest in the estate and that the applicant is dependent upon the assets of the estate, as defined below.

1. **Dependence upon Estate Assets:** The applicant must demonstrate their financial circumstances require them to rely upon the assets of the estate by meeting one of the following criteria:
 - a. The estate assets or property received by survival or distribution are part of a business, including a working farm,
 - i. upon which the applicant was dependent for applicant's livelihood during the decedent's lifetime, and
 - ii. the recovery of which by the Department would deprive the applicant of their sole means of livelihood,or
 - b. The applicant's household income and asset level combined is less than 180% of the Federal Poverty Income level. The request shall contain a written statement of the circumstances constituting the hardship and all supporting documentation. The income and asset level of the applicant for the 52 weeks preceding the Member's death plus the applicant's income and assets at the time of application shall be used to determine waiver eligibility. The Department may also request the applicant's previous two years of income preceding the Member's death and any other financial information that may support the application.*

**The Department shall submit to CMS and anticipates approval for a State Plan Amendment related to these provisions.*

B. UNDUE HARDSHIP WAIVER BASED ON CARE GIVEN EXEMPTION

MaineCare may exempt a portion of a Member's estate from estate recovery for health maintenance activities and personal care services performed for the Member by one individual who has a beneficial interest in the Estate. If the current income level of the waiver applicant is below two hundred percent (200%) of the current Federal Poverty Income Level, adjusted for the person's household size, MaineCare may designate a portion of a Member's estate as exempt from its estate recovery efforts if a person can demonstrate that health care maintenance activities or personal care services have been provided to a Member, as outlined below: