STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Iowa

TREATMENT OF TRUSTS

The agency does not apply the trust provisions in any case in which the agency determines that such application would work an undue hardship.

The following criteria will be used to determine whether the agency will not count assets transferred because doing so would work an undue hardship.

To establish undue hardship, the client or responsible person must provide evidence showing that all the following conditions are met:

- Application of the transfer of asset penalty would deprive the client of food, clothing, or shelter, or other necessities of life; or of medical care, such that the client's health or life would be endangered.
- The client or the client's spouse has exhausted all means including legal remedies and consultation with an attorney to recover the resource.
- The client's remaining available resources (after the attribution for the community spouse) are less than the monthly statewide average cost of nursing facility services to a private pay resident, counting the value of all resources except for:
  - The home if occupied by a dependent relative or if a licensed physician verifies that the client is expected to return home.
  - Household goods.
  - A vehicle required by the client for transportation.
  - Funds for burial of $4,000 or less.

Transfers of a client's assets to the person handling the client's financial affairs, that person's spouse, or that person's children are not considered a transfer of assets for less than fair market value, unless there is evidence that the transfer was completed at the direction or with the acquiescence of the client. Transfers that are not made at the direction of or with the acquiescence of the client are not assessed a penalty.

Under the agency's undue hardship provisions, the agency exempts the funds in an irrevocable burial trust.

The maximum value of the exemption for an irrevocable burial trust is $ 1500

Substitute per letter dated 12/7/99