

Adjustments to the Disqualification for Asset Transfer

- (1) The disqualification imposed under OAR [461-140-0260](#) is not adjusted once applied in the Supplemental Nutrition Assistance Program (SNAP).
- (2) In all other programs, the disqualification is voided if the transfer that caused the disqualification is rescinded. The duration of the disqualification is recalculated if the terms of the transfer are modified. Returned assets are included in the eligibility determination for any previous period during which benefits were denied.
- (3) For nursing facility services, *home and community-based care* (see OAR [461-001-0030](#)), and Refugee Assistance Medical (REFM), the Department may waive the disqualification if the disqualification would create an undue hardship on the individual. For purposes of this section, the disqualification would create an undue hardship if the requirements of subsections (a) and (b) of this section are met:
 - (a) The individual has no other means for meeting their needs. The individual has the burden of proving that no other means exist by---
 - (A) Exploring and pursuing all reasonable means to recover the assets to the satisfaction of the Department, including legal remedies and consultation with an attorney; and
 - (B) Cooperating with the Department to take action to recover the assets.
 - (b) The disqualification would deprive the individual of---
 - (A) Medical care such that the individual's health or life would be endangered; or
 - (B) Food, clothing, shelter, or other necessities of life without which the health or life of the individual would be endangered.

- (4) As authorized by ORS 411.620, the Department retains the authority to bring a civil suit or action to set aside a transfer of assets for less than fair market value and may seek recovery of all costs associated with such an action.
- (5) Notwithstanding the granting of an undue hardship waiver under section (3) of this rule, the Department is not precluded from recovering public assistance or medical assistance from any assets in which the individual held an interest, or in which the individual previously held an interest, at the time the undue hardship waiver was granted.

Statutory/Other Authority: ORS [409.050](#), [411.060](#), [411.404](#), [411.816](#), [412.014](#), [412.049](#)

Statutes/Other Implemented: ORS [409.010](#), [411.060](#), [411.404](#), [411.632](#), [411.816](#), [412.014](#), [412.049](#)

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