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SUPPLEMENT 10 to ATTACHMENT 2.6-A  
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OMB No.: 0938-

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: West Virginia

CONSIDERATION OF MEDICAID QUALIFYING TRUSTS--UNDUE HARDSHIP

1902(k)(4) of the  
Act, P.L. 99-272  
(Section 9506)

The following criteria will be used to determine whether the agency will not count the funds in a trust as specified in ATTACHMENT 2.6-A, section C.2., because it would work an undue hardship for categorically and medically needy individuals:

"For an applicant or recipient who is subject to the requirements at §1902(k) of the Act, governing Medicaid qualifying trusts, the State will waive application of these requirements to the applicant or recipient in cases where the state determines that application of these rules would result in undue hardship."

TN No. 94-15  
Supersedes  
TN No. 90-08

Approval Date JUN 30 1995

Effective Date JUL 01 1994

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: West Virginia

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:

Procedure for undue hardship determination is same as 11. in Supplement 9a to Attachment 2.6A.

- 1) The affected applicant/recipient has exhausted all means, legal and otherwise, to receive a fair market return for the transferred assets; and
- 2) The affected applicant/recipient is unable either to regain the transferred asset after all means, legal and otherwise, have been pursued, or to receive a fair market return for the transferred asset; and
- 3) The affected applicant's (recipient's) health would be in jeopardy without the assistance of Medicaid coverage.

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 \$ 3,000.00.

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