

WAC 182-527-2750 Estate recovery—Delay of recovery for undue hardship. For the purposes of this section, the term "agency" includes the agency's designee.

(1) If an undue hardship exists at the time of the client's death, an heir may ask the agency to delay recovery.

(a) Undue hardship exists only when:

(i) The property subject to recovery is the sole income-producing asset of an heir;

(ii) Recovery would deprive an heir of shelter and the heir cannot afford alternative shelter; or

(iii) The client is survived by a state-registered domestic partner.

(b) Undue hardship does not exist if the client or the heir created circumstances to avoid estate recovery.

(2) If the agency determines recovery would cause an undue hardship for an heir, the agency may delay recovery until the hardship no longer exists.

(3) If the agency denies an heir's request to delay recovery, the agency notifies the heir in writing. The notice includes instructions on how to request a hearing.

(4) If the agency grants a delay of recovery under this section, the heir must:

(a) Timely comply with any agency request for information or records;

(b) Not sell, transfer, or encumber the property;

(c) Reside on the property;

(d) Timely pay property taxes and utilities;

(e) Insure the property for its fair market value;

(f) Name the state of Washington as the primary payee on the property insurance policy;

(g) Provide the agency with a copy of the property insurance policy upon request;

(h) Continue to satisfy the requirements in subsection (1) of this section.

(5) If the heir dies, or violates any provision of subsection (4) of this section, the agency may begin recovery.

(6) If the agency denies the request, the heir may request an administrative hearing under WAC 182-527-2753.

[Statutory Authority: RCW 41.05.021, 41.05.160. WSR 16-05-054, § 182-527-2750, filed 2/12/16, effective 3/14/16. Statutory Authority: RCW 41.05.021. WSR 13-19-038, § 182-527-2750, filed 9/11/13, effective 10/12/13. WSR 12-19-070, recodified as § 182-527-2750, filed 9/17/12, effective 10/1/12. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, and chapter 26.60 RCW. WSR 09-07-038, § 388-527-2750, filed 3/10/09, effective 4/10/09. Statutory Authority: 2005 c 292, RCW 43.20B.080, 74.39A.170, 42 U.S.C. Section 1396p. WSR 06-17-075, § 388-527-2750, filed 8/14/06, effective 9/14/06. Statutory Authority: RCW 43.17.240, 43.20B.80 [43.20B.080], 74.08.090, 74.34.090, Section 1917(b) of the Social Security Act and 2001 2nd sp.s. c 7, Part II. WSR 04-10-060, § 388-527-2750, filed 4/30/04, effective 6/1/04. Statutory Authority: RCW 74.08.090. WSR 01-02-076, § 388-527-2750, filed 12/29/00, effective 1/29/01. Statutory Authority: RCW 43.20B.080, 74.08.090 and 74.34.010. WSR 99-11-076, § 388-527-2750, filed 5/18/99, effective 6/18/99. Statutory Authority: 1995 1st sp.s. c 18 and RCW 74.08.090. WSR 95-19-001 and 95-24-037 (Orders 3893 and 3893A), §

388-527-2750, filed 9/6/95 and 11/29/95, effective 10/7/95 and 12/30/95.]