

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: SOUTH DAKOTA

CONSIDERATION OF MEDICAID QUALIFYING TRUSTS—UNDUE HARDSHIP

Citation(s)

Section 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:

The Department will waive the denial of eligibility when the individual has shown that he has no other means of support, and that he has pursued all necessary action, which may include court action, in an attempt to obtain such support.

In addition the Department will waive denial of eligibility when the Medicaid Qualifying Trust is irrevocable and the funds used to establish the trust were from a lump sum payment received under the provisions of the Zebley decision.