

RESOURCES

PRE-NEED FUNERAL AGREEMENTS

Description: As a result of changes in State law, effective January 1, 1997, all Medicaid A/Rs may establish an irrevocable pre-need funeral agreement with a funeral firm, funeral director, undertaker, or any other person, firm or corporation which can create such an agreement. The agreement may be made with the assets of the A/R or the assets of a legally responsible relative. Effective January 1, 2011, such irrevocable pre-need funeral agreements may be for the funeral and/or burial expenses of the A/R or his/her family member. Moneys paid for such an agreement are held in trust and cannot be refunded to the Medicaid A/R or other purchaser of pre-need goods and services.

Policy: Pre-need funeral agreements entered into by Medicaid A/Rs on or after January 1, 1997 with assets of the A/R or a legally responsible relative must be irrevocable. As such the A/R is not entitled to have his/her money returned once it is paid. Any funds remaining after payment of all funeral and burial expenses must be paid to the social services official responsible for arranging indigent burials in the district where the decedent resided.

Effective January 1, 2011, pre-need funeral agreements established with assets of an A/R or legally responsible relative for the funeral and/or burial expenses of a family member must also be irrevocable and are subject to the rules described above.

Since the money paid in connection with such agreements must be used only for funeral and burial expenses they are not available resources of the A/R. As long as the A/R pays fair market value for the goods and services to be furnished, the amount paid to the funeral director is a compensated transfer of assets, and does not result in a transfer-of-assets penalty. The A/R, therefore, can purchase non-burial space items in excess of \$1,500 (\$3,000 for a couple) through an irrevocable pre-need funeral agreement.

Generally, all pre-paid burial space items are covered under the irrevocable pre-need funeral agreement. However, certain burial space items purchased and paid for in full prior to entering into an irrevocable pre-need funeral agreement may remain outside the agreement, such as a cemetery plot, urn, vault, mausoleum, crypt, or headstone.

NOTE: Effective January 1, 2010 the resource test applies ONLY to Medicaid A/Rs who are SSI-related. Therefore a review of a pre-need funeral agreement is not required for Medicaid applicants who do not have a resource test.