

PRE-PAID FUNERALS

The who, what, where, when, why and how...

Irrevocable prepaid funeral burial contracts funded with cash are exempt up to \$5,874, except there is no cap on the purchase of items related to the burial space. However, no limits are placed on prepaid funeral burial contracts funded by the irrevocable assignment of life insurance. To be exempt, either type of contract must name the State of Illinois as the remainder beneficiary, that is, the beneficiary of the life insurance proceeds in excess of the cost of the funeral, if any, up to the amount of medical assistance paid, and the contract must specify the goods and services to be provided and their price.

THE ILLINOIS LAW - 305 ILCS 5/3-1.2

Prepaid funeral or burial contracts are exempt to the following extent:

- (1) Funds in a revocable prepaid funeral or burial contract are exempt up to \$1,500, except that any portion of a contract that clearly represents the purchase of burial space, as that term is defined for purposes of the Supplemental Security Income program, is exempt regardless of value.
- (2) Funds in an irrevocable prepaid funeral or burial contract are exempt up to \$5,874, except that any portion of a contract that clearly represents the purchase of burial space, as that term is defined for purposes of the Supplemental Security Income program, is exempt regardless of value. This amount shall be adjusted annually for any increase in the Consumer Price Index. The amount exempted shall be limited to the price of the funeral goods and services to be provided upon death. The contract must provide a complete description of the funeral goods and services to be provided and the price thereof. Any amount in the contract not so specified shall be treated as a transfer of assets for less than fair market value.

(3) A prepaid, guaranteed-price funeral or burial contract, funded by an irrevocable assignment of a person's life insurance policy to a trust, is exempt. The amount exempted shall be limited to the amount of the insurance benefit designated for the cost of the funeral goods and services to be provided upon the person's death. The contract must provide a complete description of the funeral goods and services to be provided and the price thereof. Any amount in the contract not so specified shall be treated as a transfer of assets for less than fair market value. The trust must include a statement that, upon the death of the person, the State will receive all amounts remaining in the trust, including any remaining payable proceeds under the insurance policy up to an amount equal to the total medical assistance paid on behalf of the person. The trust is responsible for ensuring that the provider of funeral services under the contract receives the proceeds of the policy when it provides the funeral goods and services specified under the contract. The irrevocable assignment of ownership of the insurance policy must be acknowledged by the insurance company.

(To be exempt, an irrevocable prepaid burial contract funded by assignment of life insurance to a trust and established on or after 07/01/12 must name the State of Illinois as remainder beneficiary to the extent the state provides medical assistance. This specific time frame was added to PM 07-02-08-d along with instructions to submit a check for the remainder, when appropriate, to the HFS Bureau of Collections and payable to Treasurer, State of Illinois, HFS.)

(Source: P.A. 97-689, eff. 6-14-12; 98-104, eff. 7-22-13.)

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THE STATE OF ILLINOIS MEDICAID REGULATIONS
Illinois Administrative Code - Section 120.381 Exempt Resources

d) Prepaid Funeral/Burial Contracts. Prepaid funeral/burial contracts are exempt to the following extent:

- 1) Funds in a revocable prepaid funeral/burial contract are exempt up to \$1500, except that any portion of a contract that clearly represents the purchase of burial space, as that term is defined for purposes of the Supplemental Security Income program, is exempt regardless of value.
- 2) Funds in an irrevocable prepaid funeral/burial contract are exempt up to \$5,874, except that any portion of a contract that clearly represents the purchase of burial space, as that term is defined for purposes of the Supplemental Security Income program, is exempt regardless of value. This amount shall be adjusted annually for any increase in the Consumer Price Index. The amount exempted shall be limited to the price of the funeral goods and services to be provided upon death. The contract must provide a complete description of the funeral goods and services to be provided and the price of those goods and services. Any amount in the contract not so specified shall be treated as a transfer of assets for less than fair market value.

3) A prepaid, guaranteed price funeral/burial contract, funded by an irrevocable assignment of a person's life insurance policy to a trust, is exempt. The amount exempted shall be limited to the amount of the insurance benefit designated for the cost of the funeral goods and services to be provided upon the person's death. The contract must provide a complete description of the funeral goods and services to be provided and the price of those goods and services. Any amount in the contract not so specified shall be treated as a transfer of assets for less than fair market value. The trust must include a statement that, upon the death of the person, the State will receive all amounts remaining in the trust, including any remaining payable proceeds under the insurance policy up to an amount equal to the total medical assistance paid on behalf of the person. The trust is responsible for ensuring that the provider of funeral services under contract receives the proceeds of the policy when it provides the funeral goods and services specified under the contract. The irrevocable assignment of ownership of the insurance policy must be acknowledged by the insurance company.

(Source: Amended at 37 Ill. Reg. 10208, effective June 27, 2013)

THE STATE OF ILLINOIS MEDICAID EMPLOYEE MANUAL
State of Illinois HFS Medicaid Manual: WAG 07-02-08-d

- Disregard a prepaid burial contract funded by a life insurance policy when ownership of the insurance policy has been irrevocably assigned. With the irrevocable assignment of ownership of the insurance policy, the resource no longer belongs to the person.

When a life insurance policy funds a prepaid burial contract, the life insurance policy is purchased at the time the prepaid burial arrangement is made. The funeral home, acting as an agent of the insurance company, sells the person the life insurance policy. The person assigns ownership of the life insurance policy to a third party. The third party may be a trust within the insurance company. The party accepting the assignment of the life insurance policy is responsible for ensuring that the funeral home receives the proceeds of the insurance policy when they provide the funeral goods and services selected by the person.

- The assignment represents the transfer of resources. If the person resides in an NH or SLF facility, or has applied for or is receiving DoA HCBS waiver services, determine if fair market value was received. ~~The amount exempted is limited to the insurance benefit designated for the cost of funeral goods and services to be provided upon the person's death. The contract must include a complete description of funeral goods and services to be provided and the cost of those goods and services. Treat any amount not specified in the contract as a transfer for less than fair market value.~~

To be considered exempt, a burial plan established on or after 07/01/12, the trust that funds the burial must also state that, upon the death of the person, the State will receive all amounts remaining in the trust up to an amount equal to the total medical assistance paid on the person's behalf.

- To be valid, the irrevocable assignment of ownership of the insurance policy must be acknowledged by the insurance company. If the irrevocable assignment is not acknowledged by the life insurance company, treat the policy as the customer's policy. If the face value is greater than \$1,500, apply the cash value of the policy to the customer's resource limit (see PM 07-02-07)).