

LEGAL EASE



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Burial reserves

Clients, and family of clients, often have questions about burial reserves, especially when applying for Medical Assistance for long term nursing home care. The Pennsylvania Department of Welfare (DPW) who administers Medical Assistance, or Medicaid, in the Commonwealth will encourage the purchase of a burial reserve. The theory is that when someone “spends down” all of their assets to qualify for Medicaid, there will be nothing left of their resources at their death to pay for their final expenses.

While a prepaid funeral contract, or a burial reserve, may sound like a good idea, it may not be the best plan for everyone. This type of contract allows a person to pay now for goods and services needed in the future. There are several ways to accomplish this.

Some people meet with the funeral director of choice, and plan, as well as pay for, their funerals. In Pennsylvania, funeral directors are required to provide a “price list” for all goods and services connected with burial or cremation. There are those who feel comfortable with making their own final arrangements, perhaps because they wish to spare family members from dealing with this chore, or because they have no close family members who will be able to handle this. I have spoken with adult children who found that this method was seen as a gift from a parent, in that everything was pre-arranged, and there was no doubt as to what mom or dad would have liked. Adult children, or other relatives, are not required then to make multiple decisions at a very difficult and emotional time, nor do they need to find the monetary resources to pay for their loved one’s arrangements.

Other people merely make arrangements to pay for their burial needs by meeting with the funeral director of choice, and purchasing a type of insurance policy which will guarantee that all expenses listed in the contract will be “covered” at the time of need. The Pennsylvania Funeral Directors Association guarantees that the contract will be honored, in the unlikely event that the funeral home goes out of business. Family can usually request that another funeral home honor the contract if they so desire, although the original funeral director is not required to comply with this request.

The third option is to purchase a Certificate of Deposit (CD), or open another type of bank account with funds designated for a burial reserve. It is extremely important that the financial product chosen be labeled “**irrevocable** burial reserve,” or DPW will consider these monies to be an available asset. An irrevocable burial reserve, as well as one for the spouse, is protected for the person who is applying for a person applying for Medicaid.

The timing for purchase of a prepaid funeral contract can be important if one spouse is facing long term nursing home care. If a burial reserve has not been purchased prior to admission to a nursing home, this contract can be used as part of the “spend down” to be eligible for Medicaid. The contract should be purchased after one spouse has actually been admitted to the nursing home.

In some cases, an existing life insurance policy can be assigned to the funeral home of choice. This must be discussed on a case by case basis with the funeral director. Many people buy life insurance for the express purpose of using it to pay for their final expenses.

Finally, prepayment of funeral expenses may reduce the amount of “deductions” permitted on the PA inheritance tax return. This should not be a deterrent for most people, however, if they wish to prepay, or preplan their funerals, or if they just wish to set aside money for that purpose.