

## Preneed Burial and Funeral Agreements

### **What is a preneed burial and funeral agreement?**

A preneed agreement is a contract to pay in advance for burial and/or funeral goods and services. Preneed agreements are usually between the buyer and the funeral director or cemeterian (cemetery manager), but third-party sellers, such as casket or monument dealers, also sell preneed agreements in some states.

### **When does the buyer pay for the goods and services?**

The buyer pays at the time of the agreement, and the funds are generally held in trust. A third party manages the funds as the trustee. Upon the buyer's death, the funeral home or cemetery uses the funds for the goods and services described in the agreement.

Medicaid allows recipients to set aside a certain amount of money in an irrevocable trust for funeral expenses, which cannot be seized if they begin to receive long-term care paid for by Medicaid.

### **Are preneed agreements regulated?**

State laws vary in scope, and may have different regulations for funeral homes than for cemeteries or third parties. State laws generally govern the licensure requirements of funeral homes, cemeteries, and third parties, percentage of money paid that must be held in trust, and form and content of preneed agreements, including disclosures regarding any right to cancel and the amount to be refunded.

The Funeral Rule is enforced by the Federal Trade Commission, and gives the buyer certain rights regarding preneed agreements with funeral homes. It does not apply to third-party sellers or cemeteries that do not have an on-site funeral home. The Funeral Rule includes the following rights:

- You have the right to buy separate goods and services, and don't have to accept a package with items you don't want.
- You are entitled to price information by telephone or in person if you ask for it, and you do not have to provide your contact information.
- You are entitled to a general price list that you can keep, which lists all goods and services offered and their cost.
- If the general price list does not include burial container prices, you have a right to see a separate container price list before viewing containers.
- You are entitled to a statement listing every good and/or service you select, its price, and the total cost.
- A funeral home offering cremations must make available alternative containers (such as those made from unfinished wood or cardboard), and tell you they are available.
- A funeral provider can't refuse to handle a casket or urn you purchased elsewhere (such as online or at a local casket store), charge you a handling fee, or require you to be present when the casket or urn is delivered.

## **What are some questions to ask before paying for a preneed agreement?**

Ask about lower-priced caskets and containers that may not be on display.

Ask about alternatives to embalming. Funeral homes may offer direct cremation and immediate burial, refrigeration, or a private family viewing without embalming.

Ask whether prepayment is ever refundable, such as if you cancel the preneed agreement or the funeral home goes out of business.

Ask whether the preneed agreement is transferable if you relocate, decide you want to use a different funeral home or cemetery, or die away from home.

## **What are some other tips regarding preneed agreements?**

Compare prices from two or more funeral homes before making your selection, and confirm that the funeral director is licensed and has a good reputation.

It may be helpful to have a family member attend the arrangement conference with the funeral director to help you plan arrangements.

Confirm that the written preneed agreement includes the following information:

- The total paid and where the money will be deposited until the funeral is provided;
- Who receives interest on the amount paid, and who has to pay taxes on any interest generated;
- A written statement listing all goods and services selected, including prices;
- Whether the funeral home guarantees the price of any goods and services purchased, and who is responsible for any additional amount due when the funeral is provided;
- Whether the funeral home will substitute goods and services of equal or greater value at no additional cost, in the event that any goods and services selected aren't available at the time of need;
- In what circumstances you may cancel the preneed agreement and how much of the amount paid will be refunded;
- In what circumstances you may transfer the preneed agreement to another funeral home in the event of relocation or death outside the service area;
- Any other terms agreed upon with the funeral director.

Keep a copy of any preneed agreement and tell a close friend or family member where it is kept and which goods and services it covers. You may wish to provide them with their own copy.

**What are some other ways to pay for burial and funeral goods and services?**

You may wish to preplan arrangements by comparing prices, discussing preferences with family members and friends, and making decisions regarding funeral goods and services without prepaying through a preneed agreement.

You can set aside money in a bank account earmarked for funeral expenses, which can be designated a payable on death to a beneficiary such as a family member or friend, or a funeral home.

You can also purchase a life insurance policy equal to the cost of the funeral expenses.

You can establish a private irrevocable trust with a family member or friend as the beneficiary. If you are concerned about Medicaid and planning for funeral expenses, ask your Medicaid department if they accept this as a way to protect funeral assets.