

## Typical prepayment plans

### ■ Insurance plans

**Pre-need insurance** is a whole-life policy offered by funeral providers, with installments paid to an intermediary insurance company. **Burial insurance** is a life insurance policy intended to cover death-related expenses. Funds are paid to a named beneficiary, who can use the death benefits in any manner he or she chooses. In both cases the insurance company pays the death benefit immediately.

Insurance policies are generally more portable than other pre-paid funds if you move to another area, but they rarely disburse more than was paid in premiums. In most cases, you will spend as much *or more* in premiums than the policy will actually pay out at the time of your death.

### ■ Regulated trust plans

With a funeral trust plan, you sign a contract and pay the funeral home the cost of a funeral either in installments or in a lump-sum. The director places the money into an interest-bearing trust account, and serves as the trustee. After death, the trust funds are paid directly to the funeral provider named as trustee.

An **irrevocable trust** can't be changed or dissolved without the permission of the trustee. Once you transfer money into this type of trust, you no longer own the assets. However, you can reassign that irrevocable trust to a different funeral home later, even though you won't be able to cash it out. A **revocable trust** can be cashed out or cancelled at any time. You own the money and can receive interest from it; the funds are transferred to the beneficiary only after your death.

## The Medicaid factor

The main reason to consider prepaying your funeral, burial, or cremation is to shelter your assets from Medicaid. Money you set aside in an

**irrevocable trust** will be excluded from your net assets when your eligibility to receive Supplementary Security Income (SSI) or Medicaid benefits is determined. On the other hand, money placed in a **revocable trust** can be taken by Medicaid if your other assets have been depleted.

Be sure that the plan you buy is a legitimate Medicaid-exempt trust. Also, be aware that any money left over after funeral expenses are paid is subject to recovery by Medicaid. Don't buy an irrevocable funeral trust "just in case" you might need Medicaid—wait until you know for sure. Consult a lawyer or financial adviser before deciding.

## Legal protections in New York

New York State has some of the best consumer-friendly pre-need laws in the country. New York requires 100% of your money to be deposited in trust. The consumer has the right to a full refund, with interest, on a revocable plan, and irrevocable plans are transferable. In addition:

- At the conclusion of the prearrangement session, you must be given an itemized statement that will list all merchandise, services and use of facilities that you selected, with the price of each item and the total price. The prices must be the prices as shown on the funeral firm's current General Price List (GPL).
- You must be given a written agreement (contract) that discloses all financial terms and your rights as a consumer.
- Within 10 days, all of your money must be deposited in an interest-bearing account in a bank, savings and loan association or in a government-backed investment, such as US Treasury bills.
- Within 30 days of deposit, the funeral firm must notify you of the name of the institution where your money is deposited and the account number.

- Prepayment money remains your property and cannot be commingled with other funds of the funeral firm.

- Unless you are applying for or receiving Supplementary Security Income (SSI) or Medicaid, your money is put in a revocable trust account. The money, including accrued interest, can be withdrawn by you or your agent at any time before the funeral is provided.

- However, if you are applying for or receiving SSI or Medicaid, your money must be placed in an irrevocable trust account. Although irrevocable, the funds are "portable." That is, they can be paid to any funeral firm that actually provides the funeral goods and services, not just to the firm that set up your account.

- Annually you will receive an IRS Form 1099 with notice of interest earned by your account. At your request, the funeral firm must provide you with a detailed statement of the account.

- When you die, the funeral firm must give your family a new itemized statement that will provide a reconciliation of the money in the trust account and the actual cost of the funeral.

- No administrative or consulting fee can be charged for prearranging or prepaying any funeral.

## Benefits of prepaying

- Funds will be available to pay for the type of funeral you want without burdening your survivors.

- You'll enjoy peace of mind, especially if you are alone and have no one close to you to make decisions about your funeral.

- You can set aside funds to be excluded from your net assets when applying for SSI or Medicaid.

## Risks of prepaying

- Many insurance companies will not pay the full benefit—or anything at all—during the first few years the premiums are being paid.
- The cash-out value on an insurance policy is almost always less than you originally paid.
- The money you pay for funeral arrangements now won't be available for emergencies later.
- Money spent today may not cover future funeral costs, which could result in requests for additional money.
- Survivors may not be aware that funeral costs have been paid, and may pay at a different funeral home.
- If you die out of town and your family employs another funeral home there, it may be difficult to get a refund.
- By the time of your death, the funeral home may have a poor reputation, or be out of business entirely.

## Safer alternatives

### ■ Prearrange without prepaying

By comparison shopping, you can make reasonably-priced funeral arrangements, without setting aside large sums of money or prepaying anything. Get detailed price lists from several funeral homes—over the phone or in person—and compare prices. You'll see big price differences for essentially the same goods and services. Visit several of the most affordable funeral homes, and choose the one you like best. You might even fill out a pre-arrangement form and leave it on file there.

Most importantly, be sure to tell your family about your choice. Give them copies of any contracts or written wishes right away. Do not put them in a lockbox. Do not simply tell your

children, "Everything is taken care of." Your survivors **will** have to make choices after you die; you cannot prepay the future away. You and your family will enjoy peace of mind, knowing that the important decisions have been made and thoroughly discussed.

### ■ Set up a Payable on Death account

If you want to set money aside for your funeral expenses without handing it over to a funeral firm, consider establishing an individual "payable on death" (POD) account, also called a Totten Trust. You deposit in a bank enough money to cover the current price of a funeral, then let the accumulated interest cover any cost increase due to inflation. You can always add to it over time if interest rates are low. This account can be made payable upon death to a trusted family member or friend who will use the money properly for your funeral. (We **do not** recommend making a funeral director your beneficiary.) The funds will be released immediately after your death without the delay of probate. POD bank accounts are FDIC-insured, they remain in your name, and money can be withdrawn at any time. However, such accounts are treated as countable assets by Medicaid, and the interest is subject to income tax.

## Conclusion

We heartily endorse advance planning, which allows comparison-shopping and makes the arrangements easier for your survivors. But if you decide to pay for your funeral in advance, be **very** cautious. You should interview and evaluate multiple funeral homes before signing any agreement for future delivery of funeral goods and services. Your local funeral consumer group can help you with the research. The final decision is yours, so choose wisely.

# Should You Prepay Your Funeral?

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## Benefits and Risks

### Funeral Consumers Alliance of Greater Rochester

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*Dedicated to protecting a consumer's right to choose a meaningful, dignified, and affordable funeral*