

5160:1-3-05.6

Medicaid: burial funds and contracts.

(A) This rule describes the treatment of burial funds and burial contracts for purposes of determining eligibility for medical assistance.

(B) Definitions.

(1) "Burial funds" are revocable burial contracts, revocable burial trusts, other revocable burial arrangements (including the value of certain installment contract for burial spaces), cash, financial accounts (checking or savings accounts), or other financial instruments with a definite cash value (e.g. stocks, bonds, etc.).

(2) "Liquid assets" means cash or property immediately convertible to cash.

(3) "Prepaid burial contract" means an agreement whereby the buyer pays in advance for a burial that the seller agrees to furnish upon the death of the buyer or other designated individual.

(C) Burial funds exclusion.

(1) Up to one thousand five hundred dollars for each person can be excluded in burial funds set aside for:

(a) The burial expenses of the individual; and

(b) The burial expenses of the individual's spouse.

(2) Burial funds must be clearly designated for the individual's or the individual's spouse's burial and must be kept separate from nonburial-related assets in order to be excluded.

(3) The burial funds exclusion is separate from and in addition to the burial space exclusion described in rule 5160:1-3-05.7 of the Administrative Code.

(4) Any accural of interest or appreciation in the value of excluded burial funds is excluded from resources and income, even if the total value of the burial funds exceeds one thousand five hundred dollars.

(5) Expenses included for burial funds purposes are generally those related to preparing a body for burial and any services prior to burial to include transportation of the body, embalming, cremation, flowers, clothing, services of the funeral director and staff, etc.

(6) Any burial funds that exceed the burial funds exclusion are combined with all other countable resources and compared to the resource limit described in rule 5160:1-3-05.1 of the Administrative Code.

(D) Irrevocable prepaid burial contracts.

- (1) Irrevocable prepaid burial contracts are not a resource.
- (2) Any portion of the contract that represents burial funds reduces the amount available under the burial funds exclusion described in paragraph (C) of this rule.
- (3) Any portion of the contract that represents the purchase of burial spaces has no effect on the burial funds exclusion.

(E) Revocable or salable prepaid burial contracts.

- (1) If a prepaid burial contract is revocable or salable it is a countable resource and treated as a burial fund.
- (2) Any portion of the contract that clearly represents the purchase of a burial space is excludable as a countable resource if it meets the requirements of rule 5160:1-3-05.7 of the Administrative Code.
- (3) The value of a revocable or salable burial contract is:
 - (a) The amount payable to the buyer upon revocation; or
 - (b) If the contract is not revocable but is salable, its current market value.

(F) Burial space contract.

- (1) The burial space exclusion described in rule 5160:1-3-05.7 of the Administrative Code is applied to any single-purpose burial space contract if:
 - (a) The contract lists all of the burial spaces and either includes a value for each space or the total value of all the spaces combined; and
 - (b) The seller's obligations to provide those items is not contingent on further payment, as in certain installment contracts (ie. the items are actually being held for the individual's future use).
- (2) Treat the burial space contract as burial funds when:
 - (a) The unidentified portion of a contract that implies it covers only burial spaces but does not identify some or all of the spaces or does not include either a value for each burial space or the total of all the spaces combined; or
 - (b) The amount paid on an installment contract for burial spaces if the

contract does not entitle the individual to the spaces until the full purchase price has been paid.

(G) Life insurance funded burial contracts.

(1) A life insurance funded burial contract involves an individual owning/purchasing a life insurance policy on his or her own life and then assigning, revocably or irrevocably, either the ownership or proceeds of the policy to a third party, generally a funeral provider. The purpose of the assignment is to fund a burial contract.

(a) Assignment of ownership.

(i) Revocable assignment of ownership.

(a) The burial space exclusion described in rule 5160:1-3-05.7 of the Administrative Code does not apply because the funeral provider has not received payment and no purchase of burial spaces has been made. The provider has no obligation to provide any spaces until the individual dies and, therefore, no spaces are being held for the individual.

(b) The resource value of the burial contract is equal to the cash surrender value (CSV) of the life insurance policy, subject to the burial funds exclusion described in paragraph (C) of this rule.

(ii) Irrevocable assignment of ownership.

(a) The burial space exclusion described in rule 5160:1-3-05.7 of the Administrative Code may apply if the burial space contract with a funeral service company for specified burial spaces represents current right to the use of the items at the amount shown. Any portion of the burial contract that represents the purchase of a burial space has no effect on the burial funds exclusion described in paragraph (C) of this rule.

(b) The life insurance policy and burial contract are not resources. The face value (FV) of the burial funds portion of the contract is subject to the burial funds exclusion described in paragraph (C) of this rule.

(b) Assignment of proceeds.

(i) Revocable assignment of proceeds.

(a) The burial space exclusion described in rule 5160:1-3-05.7 of the Administrative Code does not apply to the CSV of the life insurance policy because the funeral provider has not received payment and no purchase of burial spaces has been made. The provider has no obligation to provide any spaces until the individual dies and, therefore, no spaces are being held for the individual.

(b) The resource value of the burial contract is equal to the CSV of the life insurance policy.

(i) If the FV of all life insurance policies on the individual's life is one thousand five hundred dollars or less, the CSV is excluded under the life insurance exclusion described in rule 5160:1-3-05.12 of the Administrative Code.

(ii) If the FV of all life insurance policies exceeds one thousand five hundred dollars, treat the CSV of the policy according to the burial funds exclusion described in paragraph (C) of this rule.

(ii) Irrevocable assignment of proceeds. The irrevocable assignment of proceeds is not permitted without requiring the irrevocable assignment of ownership.

(2) When an individual irrevocably transfers ownership of a revocable life insurance policy that funds a burial contract to a trust, the CSV of the policy is evaluated under the trust rule 5160:1-3-05.2 of the Administrative Code.

(3) Life insurance funded burial contracts are not burial insurance.

(4) Dividend accumulations of a life insurance policy as part of the value of the policy or the prepaid burial contract are not excluded. Dividend accumulations are separate resources and must be designated separately in order to qualify for the burial funds exclusion.

(H) Burial insurance.

(1) Burial insurance is a contract whose terms prevents the use of its proceeds for anything other than payment of the insured's burial expenses.

(2) Treat burial insurance as burial funds described in paragraph (C) of this rule.

(3) The value of the burial insurance policy is the FV of the policy.

(I) Contracts for both burial spaces and burial funds. If a contract does not indicate which amounts represent the purchase of burial spaces and which amount represents burial funds, and which parts, if any, are irrevocable, the entire contract shall be considered a resource in the form of burial funds.

Replaces: 5160:1-3-05.6

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 5160.02, 5163.02
Rule Amplifies: 5160.02, 5163.02
Prior Effective Dates: 9/3/77, 2/1/79, 10/1/79, 1/3/80, 12/1/84 (Emer.),
2/1/85, 5/3/85 (Emer.), 8/1/85, 9/1/85 (Emer.),
11/25/85, 10/1/88 (Emer.), 12/20/88, 10/1/02, 10/2/14