

TO BE RESCINDED

5160:1-3-05.7 **Medicaid: burial spaces.**

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

(B) Definitions.

(1) "Agreement," for the purpose of this rule, means a contract with a burial provider for a burial space held for the eligible individual or a member of his/her immediate family.

(a) An individual's immediate family includes his parents, including adoptive parents, minor or adult children, including adoptive and stepchildren, siblings, including adoptive and stepsiblings and the spouses of the immediate family members.

(b) In order for the burial space exclusion to apply to spouses of the immediate family members, the marriage must be in effect at the time of determination or redetermination of eligibility for medical assistance.

(2) "Burial space," means a burial plot, gravesite, crypt, mausoleum, casket, urn, niche, or other repository customarily and traditionally used for the deceased's bodily remains. The term also includes a contract for care and maintenance of the gravesite, sometimes referred to as an endowment or perpetual care and necessary and reasonable improvements or additions to such spaces, including but not limited to vaults, headstones, markers, or plaques, burial containers (e.g., for caskets) and arrangements for the opening and closing of the gravesite.

(C) An agreement which represents the purchase of a burial space held for the burial of the individual, his or her spouse, or any other member of his or her immediate family is an excluded resource, regardless of value. For example, exclude a cemetery lot and a casket for the same person, but not a casket and an urn.

(D) A burial space is held for an individual when someone currently has title to and/or possesses a burial space intended for the individual's use (e.g., has title to a burial plot or owns a burial urn stored in the basement for his own use) or a contract with a funeral service company for specified burial spaces for the individual's burial (i.e., an agreement which represents the individual's current right to the use of the items at the amount shown).

(E) Until the purchase price is paid in full, a burial space is not held for an individual

under an installment sales contract or similar device.

(F) Administrative agency responsibilities. The administrative agency shall:

- (1) Determine whether the burial space is held for the individual or member of the individual's immediate family if the agreement shows the purchase of a specified burial space at a specified price.
- (2) Of items that serve the same purpose, exclude only one per person.
- (3) If the agreement calls for installment payments, determine whether the value of the burial space must be treated as an available resource.

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CERTIFIED ELECTRONICALLY

Certification

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Date

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