

TO BE RESCINDED

5160:1-3-32.2 **Medicaid: burial spaces.**

- (A) A burial space or 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. Of items that serve the same purpose, exclude only one per person. For example, exclude a cemetery lot and a casket for the same person, but not a casket and an urn.
- (B) Spaces held by deemors for the burial of an eligible individual, his/her spouse and/or any member of the eligible individual's immediate family (including the deemor) are excludable. Space held by an alien sponsor or essential person for his/her own burial are excludable only if the sponsor/essential person is a member of the eligible individual's immediate family.
- (C) A burial space is 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 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. For example, a contract for care and maintenance of the gravesite, sometimes referred to as an endowment or perpetual care, can be excluded as a burial space.
- (D) An agreement which represents the purchase of a burial space is a contract with a burial provider for a burial space held for the eligible individual or a member of his/her immediate family. 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. In order for the burial space exclusion to apply to spouses of the immediate family members, the marriage must be in effect. For example, a burial space held for a sister-in-law is no longer excludable if she and the individual's brother divorce.
- (E) 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).
- (F) If the contract shows the purchase of a specified burial space at a specified price, determine whether such space is held for the individual or member of the individual's immediate family. If the space is held for the individual, determine if

the contract is irrevocable or revocable. If irrevocable, it is not a resource. If the contract is revocable, the burial space is an excludable resource. 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. If the individual does not currently own the space, he does not currently have the right to use the space, and the seller is not currently obligated to provide the space. If the contract calls for installment payments, determine whether the value of the burial space must be treated as an available resource.

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Certification

Date

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