

Preneed Funeral Arrangements



consumer **brief**

The death of a loved one is often a devastating experience, complicated by the many arrangements that must be made.

With all the considerations, many people find themselves unable to grieve until after all the funeral arrangements have been finalized. Given the tumult this causes, one is distracted and, hence, vulnerable to those who might be inclined to take advantage of the bereaved. If one gives thought to these arrangements ahead of time, one may spare oneself additional grief.

PRENEED FUNERAL ARRANGEMENTS

In recent years, more and more people have opted to take matters into their own hands and arrange their or a loved one's funeral prior to death. These arrangements are commonly referred to as "preneed funeral arrangements" or "prepaid funeral agreements." Through these arrangements, people are able to decide in advance what type of funeral they will have, while at the same time eliminating some of the stress that family members frequently experience. Consumers may also be able to lock in today's prices for a future funeral.

WHAT YOU SHOULD KNOW

Concerned about abuses to preneed arrangements, the Legislature enacted the Preneed Act of 1993 to strengthen existing laws. Its purpose was to protect consumers who pay for their funerals in advance by regulating preneed funeral agreements between funeral directors and consumers.

The law requires funeral directors to give consumers:

(1) a Statement of Funeral Goods and Services, which describes in detail the exact goods and services the consumer is purchasing. For example, what type of casket will be used for the burial.

(2) a Prepaid Agreement, which outlines the terms and conditions of the agreement including the amount of money paid and where the money will be deposited. The consumer's preneed funds may be placed in either an interest-bearing trust account or a funeral insurance policy, either of which must be placed in the consumer's name.

Consumers may also use the proceeds from an existing life insurance policy to pay for their funerals in advance.

Consumers should ask the funeral director to fully explain all the options available to them regarding the establishment of a prepaid funeral agreement.

KEEP THE FOLLOWING IN MIND:

- The Statement of Funeral Goods and Services and Prepaid Agreement must be presented, prepared and signed at the same time. Consumers should not accept any documents that have not been completely filled in and signed in their presence by the funeral directors.
- The money entrusted with the funeral director, **must** be deposited in an interest-bearing account or used to purchase a funeral insurance policy within 30 days of the agreement.
- The preneed funeral arrangements may be moved to any funeral home at any time by the consumer.
- Regardless of the options selected, *the money paid to the funeral directors for preneed funerals belongs to the consumer and must be made available to the consumer upon request at any time.*¹

By law, preneed funerals may only be funded by funeral trusts or funeral insurance policies.

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FUNERAL TRUSTS

Consumers who choose to pay for their funerals through funeral trusts, may do so by selecting either a simple trust, in which the money is deposited into a special "payable on death" ("POD") account with a local bank, or into a "pooled" trust account managed by a trustee.

The POD account must be established in the consumer's name. The funds in the account can only be paid to the funeral home when the intended funeral recipient has died.

The other type of funeral trust allows preneed money to be pooled with other preneed funds. These trust accounts are managed by a trustee. Pooled funeral trusts of more than 200 people can charge a commission that is not to exceed one (1) percent per year. Pooled funeral trusts that consist of fewer than 200 people cannot charge a commission. Individual licensees or funeral directors' associations may act as trustees of the pooled funds.

FUNERAL INSURANCE POLICIES

Preneed funeral arrangements can also be funded by funeral insurance policies, which are limited solely to paying the costs of one's funeral and/or burial. These policies are sold by a number of insurance companies through licensees of the State Board of Mortuary Science of New Jersey.

Like any other insurance policy, at the time of death, the face value of the policy is payable to the policy's beneficiary, who is responsible for paying the funeral director.

Checks should be made payable to the insurance company — not to the funeral home. Funeral directors frequently earn a commission from the sales of such policies. This fact should be disclosed to the consumer.

GUARANTEED FUNERALS/NONGUARANTEED FUNERALS

Funeral directors, at their option, may guarantee that the prices charged for the funeral's goods and services will not be subject to price increases or inflation. This enables the consumer to lock into a funeral at a certain price, regardless of how long it is from the date of the arrangements to the time the funeral actually occurs.

However, funeral directors may elect not to provide price guarantees. In this case, consumers should know that the money prepaid for the funeral may not be sufficient to cover the cost of the funeral at a future date.

¹ Typically, prepaid agreements are revocable contracts, which allow consumers to cancel the agreements at any time. However, individuals who receive Medicaid or who will qualify for Medicaid within six months of the making of the preneed funeral arrangements, may enter into irrevocable prepaid agreements. In this case, the money cannot be refunded to the consumer and can only be used at the time of the funeral. Note: Establishing an irrevocable prepaid funeral agreement can also assist in meeting the eligibility requirements for Medicaid.

Whichever option you select, it must be disclosed in writing to you at the time of the funeral arrangement.

Know the warning signs. There are certain steps consumers can take to make sure their preneed funds are safe.

- Call the bank or association where the funeral trust account has been opened to verify that your preneed money has been deposited.
- In addition to having to be licensed with the Division of Consumer Affairs' State Board of Mortuary Science of New Jersey, funeral directors who sell funeral insurance policies must also be licensed with the New Jersey Department of Banking and Insurance. Ask to see the funeral director's licenses.
- Consumers purchasing funeral insurance policies should receive those policies within a reasonable amount of time. If months have lapsed and you still have not received your policy, call the insurance company.
- Whether you've put your preneed funds into a funeral trust account or in a funeral insurance policy, make sure you receive at least one statement each year detailing the status of your account.

Note: Before entering into a preneed funeral agreement, discuss your plans with your family and/or attorney to make sure the agreement is consistent with your will and estate planning.

Anyone who has further questions or who believes that he/she has been defrauded by a funeral director, can call the Division of Consumer Affairs' State Board of Mortuary Science of New Jersey at 973-504-6425 or write to the Board at 124 Halsey St., P.O. Box 45009, Newark, N.J. 07101.

