What You Should Know about Arkansas Burial Plans and Funeral Trusts

"If you or a loved one receives public benefits, such as Medicaid, you know that there are income and resource limits that are imposed."

DEBORAH SEXTON
FAYETTEVILLE ARKANSAS ESTATE PLANNING ATTORNEY

So, when it comes to purchasing burial plots or planning for funeral expenses, you need to be careful not to jeopardize your eligibility for those benefits.

The good news is, even if you receive Medicaid or anticipate applying for benefits, you are still allowed to own a burial space and have a burial reserve. Here is what you need to know.

What is a burial reserve?

The "burial reserve" is the term for the funds or resources held, either in trust or under contract with a third party, which are designated to cover burial expenses.

The term "burial space" refers to either a conventional grave site, urn, mausoleum, or any other type of repository for human remains. A burial reserve can also be referred to by other terms, such as funeral reserves, funeral agreements, prepaid funeral agreements, burial funds and burial agreements. Medicaid recipients are allowed to have these types of assets because they are not considered as countable assets. In other words, they will not disqualify you for public benefits.

Prepaid funerals

A pre-paid funeral, a type of burial reserve, is simply a contract with a local funeral home for pre-determined funeral services. There are some significant disadvantages to pre-paying for funeral services, however. If you pre-pay for a funeral, be sure you contract with a reputable funeral home

that you expect to be in business for a long time. When a funeral home goes out of business, you will likely have no recourse. Also, if you decide later in life to move out of state, for instance, you may not be entitled to a refund, or a substantial financial penalty may be assessed. Another consideration is inflation. The money you pre-pay now may not be sufficient to cover the costs in the future.

BURIAL RESERVE ACCOUNTS

A burial reserve account is normally held at a bank or other financial institution, and earmarked for funeral costs. It is safer to designate the account as an "irrevocable burial reserve," in order to maintain eligibility for public benefits. Limitations on the amount that can be funded to these accounts may vary. If the burial reserve is revocable, on the other hand, the limit can be much less, if you want to maintain eligibility for public benefits.

What is an Irrevocable Funeral Trust?

An irrevocable funeral trust is a trust created for the purpose of covering funeral expenses. An irrevocable funeral trust typically takes the form of a single premium life insurance policy, offered by a select group of insurance companies, and placed into trust for safekeeping until your death.

Irrevocable Funeral Trusts are most often used by individuals facing the high costs of skilled nursing care. One huge benefit of this type of pre-planning is that the trust is portable and can be used to reimburse services provided by nearly any funeral home.

Funding an Irrevocable Funeral Trust

There are a variety of ways that an irrevocable funeral trust can be funded. Each may have its own advantages or disadvantages. Discuss your options with your estate planning attorney before you decide which method is best for you. The simplest method is to write a check for the total amount of the trust, and deposit it into the trust account. Other options include using:

- "old" US Savings Bonds
- expiring CD's or Treasury Certificates
- "old" insurance policy with built-up cash values
- tax free withdrawal from most annuities

Some of these methods may have tax consequences, so discuss these options with your estate planning attorney.

The importance of preplanning

It is critical to accomplish funeral planning in advance, especially if you care for someone with special needs. Planning during your loved one's lifetime will be more beneficial, than doing so after the person's death. Different rules may apply at the time of their death, and any funds left in a special needs trust or the person's estate may be subject to repayment for public benefits provided during that person's lifetime. In most cases, these repayments must be made before the funds can be used toward a funeral. However, with advance planning, you can prepay for a funeral and other related expenses, which would be an appropriate use of your loved one's assets, which will not jeopardize eligibility for public benefits. Advance planning will also provide peace of mind and avoid a possible financial burden to you and your family.

If you have questions regarding burial plans, or any other estate and medicaid planning needs, please contact the Deborah Sexton Law Office online or by calling us at (470) 443-0062.

About the Author

Deborah K. Sexton

As the sole attorney in the Fayetteville law firm of Deborah Sexton Law Office, Deb oversees a practice devoted to providing clients with the best in estate planning.

Deborah Sexton, C.P.A., J.D., L.L.M., combines an extensive background in accounting with a wide range of legal experience to provide her clients with a uniquely practical perspective. An attorney since 1983, she now devotes her practice primarily to estate planning and elder law.

EXPERIENCE

After obtaining her undergraduate degree in accounting from Abilene Christian University in Abilene, Texas, she worked in Dallas in public accounting for several years, and then went to the University of Arkansas Law School in Fayetteville. Upon graduating from law school, she went on to obtain an L.L.M. degree in Taxation from New York University.

Deborah Sexton Law Office
www.arkansas-estateplanning.com

2766 Millennium Drive
Fayetteville, AR 72703
Phone: (479) 443-0062
Fax: (479) 443-2001