

Creating a Funeral Trust

A funeral is perhaps the last "big ticket" purchase any of us will ever make. In the midst of grief, it may be the hardest task any surviving family member will ever undertake, especially if the wishes of the deceased weren't discussed during life. This article addresses the concept of a trust for individuals as part of overall estate and financial funeral planning. (It is not the so-called "Irrevocable Funeral Trust" product offered by certain insurers).

Use of a funeral trust allows the client to set aside the money that would have been used to purchase a pre-paid plan from a funeral director. It provides more flexibility than most pre-paid burial plans. A funeral trust is a simple legal document specifying the maker's wishes for his/her funeral service and designating a Trustee to make those arrangements and ensure the prompt payment thereof. It can be a stand alone trust document, or incorporated into the client's Last Will and Testament. If it is a stand alone trust, it can be funded with a variety of liquid assets, including CD, savings accounts, mutual funds and savings bonds. Like the plans sold by some insurance brokers, it can be funded with a single premium life insurance policy. The amount that the client may use to purchase a pre-paid plan is transferred to the trust where, properly invested, it will grow to meet the future funeral needs.

In addition to the usual and customary expenses of the funeral service, the trust may also provide that trust assets be used to fund other aspects of the funeral, including:

- a permanent monument in the cemetery;
- travel expenses, including lodging, for family or friends to attend the funeral; and
- paid obituary notices;

Any unexpended funds can be used to pay outstanding debts or obligations of the deceased, last illness expenses, including doctors, hospitals, and attorney's fees, or distributed to beneficiaries named in the trust document, including charities.

The primary market for this estate planning tool isn't Medicaid planning clients. The key advantage of an Irrevocable Funeral Trust is the peace of mind that comes to the client who knows that the planning has been done and the mechanism to ensure it is carried out is in place. It is important to note that the concept is unlikely to speed up Medicaid eligibility unless the trust provisions limit the Trustee to paying for only those items that are considered part of the MassHealth approved pre-paid funeral plan. The funeral trust under discussion here does work if the client survives the 5 years look-back rule for transfers.

If you have a client who might be interested in discussing this concept please give me a call.

Sincerely,
Maureen Tobin
Cooley, Shrair P.C.
email: mtobin@cooleyshrair.com
phone: 413-735-8010
web: <http://cooleyshrair.com>