

# Ask Questions When Pre-Paying for Funerals

**Q: What is a pre-need funeral contract?**

**A:** Generally, a pre-need funeral contract refers to the purchase of funeral goods and services before they are needed. Nationally, approximately one-third of funerals are arranged and purchased ahead of time.

**Q: Why would an individual pre-arrange and pre-pay a funeral?**

**A:** Pre-arrangement allows an individual to talk directly to the funeral director about his or her own funeral preferences. Also, it can relieve surviving family members of financial burdens and from having to make funeral decisions while grieving. Finally, individuals who currently qualify for Medicaid assistance or who anticipate qualifying may pre-pay their funerals without impacting their Medicaid eligibility.

**Q: Are there disadvantages to pre-paying?**

**A:** By pre-paying, you are tying up your funds. Additionally, if you cancel the pre-paid contract, you may not receive all of the funds back from the funeral home.

**Q: What does the funeral home do with my pre-payment?**

**A:** The funeral home will use the pre-paid money either to buy an insurance policy on the contract beneficiary's life or place the funds in trust. In the case of an insurance policy, the pre-paid funds are used to purchase a single-pay policy that has a built-in growth factor. When the contract beneficiary dies, the insurance policy proceeds are paid to the funeral home to cover the cost of the beneficiary's funeral.

If the pre-paid funds are placed in a trust, Ohio law requires that 100 percent of pre-need funds be placed into the trust together with all interest generated by the trust funds. The funeral home may not access those trust funds until the contract beneficiary dies and the funeral services are performed. Under Ohio law, the financial institution may not pay the funds to the funeral home until it receives a death certificate and proof that the funeral services have been provided.

**Q: I'm considering pre-paying my funeral expenses. Can I receive a refund if I change my mind after I've signed a contract?**

**A:** Pre-need contracts may either be revocable (can be canceled) or irrevocable (cannot be canceled). For the first seven days after the contract is signed, however, the consumer may revoke any pre-need contract—even an irrevocable one. During the first seven days, the consumer is entitled to a full refund. After this initial cancellation period expires, a consumer can cancel only a "revocable" contract. If the revocable pre-need contract guarantees the price of the funeral, the consumer is entitled to receive back from the funeral home 90 percent of the amount in the trust. If the pre-need contract does not guarantee a price, the consumer will get back 100 percent of all principal and interest when he or she cancels the contract. While a consumer cannot obtain a refund on an irrevocable contract, the consumer may direct that the funding be transferred to

another funeral home.

**Q: Why would a pre-need contract be made irrevocable?**

**A:** Primarily for Medicaid purposes. An individual can have only minimal resources in order to qualify for Medicaid benefits. An irrevocable pre-paid funeral contract does not count as a resource, and therefore does not disqualify the individual from receiving Medicaid assistance.

**Q: What are guaranteed price contracts and non-guaranteed price contracts?**

**A:** A guaranteed price contract means that the funeral home guarantees to provide you with the funeral goods and services you selected for the amount of money stated in the contract. This means that you or your estate will not be required to pay any additional cost for the guaranteed items.

If the contract does not guarantee the prices charged, the price of the funeral will be determined at the time the services and merchandise are provided. Any amount you pre-pay will be considered as a deposit to be applied toward the purchase price. However, if the original money paid on the contract plus the interest earned on those funds are not sufficient to cover the price of the funeral goods and services, you or your estate will be responsible for the difference.

**Q: What questions should I ask when pre-paying for a funeral?**

**A:** Look over the pre-need contract carefully ask the funeral director the following questions:

- a) Where will the pre-need funds be deposited until they are needed?
- b) Will I receive verification from the financial institution that the prepaid funds have been deposited in the trust account?
- c) If the funds are used to purchase an insurance policy, will I receive verification that the policy has been purchased?
- d) What items in the contract, if any, are covered by a price guarantee?
- e) Is the pre-need contract irrevocable or revocable?
- f) If the contract is revocable, how can I cancel the contract?

9/29/2011

*This "Law You Can Use" consumer legal information column was provided by the Ohio State Bar Association. It was prepared by attorney T. Scott Gilligan of Gilligan Law Offices in Cincinnati.*



---

Search Law You Can Use

Create PDF via PDFmyURL.com



34

*Articles appearing in this column are intended to provide broad, general information about the law. Before applying this information to a specific legal problem, readers are urged to seek advice from an attorney.*