

This brochure is designed to assist consumers understand preneed funeral arrangements. While this brochure is only available now on the Internet, the Division may make paper copies available beginning in January 2002. Please let us know if this information is helpful. Thank you for your input.

Preneed Funeral Purchasing Guide

**A Guide to Assist Consumers
Make Preneed Funeral Arrangements**



A publication of the
Department of Regulatory Agencies
Colorado Division of Insurance
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INTRODUCTION

Increasingly, people are making the choice to pre-plan their funeral arrangements. One choice is to pay funeral or burial expenses in advance. This relieves family members of the need to make these decisions and the contracts provide heirs or the estate with specific information regarding burial wishes.

Colorado insurance statutes currently permit two methods of funding preneed funeral needs: (1) Trust-funded preneed contracts, and (2) Insurance-funded preneed contracts. In Colorado, all preneed sellers offering trust-funded preneed contracts and/or insurance-funded preneed contracts must be licensed as preneed contract sellers. Although anyone may become a licensed preneed contract seller, the majority of licensed preneed contract sellers are funeral homes, mortuaries, and cemeteries. Colorado also permits licensed insurance producers to be preneed contract sellers. In the preneed industry these individuals are referred to as preneed brokers.

Do not purchase a preneed contract from a funeral home, mortuary, cemetery, or insurance producer that is not licensed with the State of Colorado as a preneed contract seller.

TRUST-FUNDED PRENEED CONTRACTS

With a trust-funded preneed contract, a consumer purchases specific funeral services and merchandise at a guaranteed price from a preneed contract seller. A written contract detailing the types of services and/or merchandise being purchased is required. The consumer pays the preneed contract seller a sum of money, either on an installment payment plan or in a single payment transaction. The preneed contract seller is then required by Colorado law to place a minimum of 75 percent of these funds in a trust account with a qualified trustee.

INSURANCE-FUNDED PRENEED CONTRACTS

Under the insurance-funded preneed contract, the consumer purchases a life insurance policy and the policy proceeds are used to pay for the funeral. The funeral home or mortuary is the insurance policy assignee and is paid directly by the insurance company after performance of the preneed contract. All cost increases incurred by the funeral home or mortuary at the time of need are paid out of the benefits from the life insurance policy up to the seller's current price list. It is important to note that these arrangements involve two separate contracts, the preneed contract and the life insurance contract which is used to fund the preneed contract.

FINAL EXPENSE POLICIES

Final Expense Policies are specifically designed to provide extra money to the decedent's family to cover his or her final medical expenses, burial costs, estate fees or other costs incurred with the decedent's death.

At first glance, there appears to be very little difference between a final expense life insurance policy and an insurance-funded preneed contract, since both products provide death benefits to pay for funeral costs. However, there are two differences. First, final expense policies cannot be assigned to a particular funeral home or mortuary. Second, the final expense policy must state that the policy's death benefit proceeds are not guaranteed to be adequate to pay for all funeral needs.

COMMON QUESTIONS CONCERNING PRENEED CONTRACTS

1. Who receives the interest on the trust funds?

The interest earned is the property of the preneed contract seller.

2. Does a preneed contract qualify as a method for spending down assets for Medicaid?

Yes. However, each state Medicaid office has its own qualification guidelines. Contact the Colorado Department of Health Care Policy and Financing at (303) 866-2144 for further information.

3. Can a contract be used at any funeral home?

Funeral homes are not obligated to accept a contract issued by another seller or to perform services at the prices listed in the contracts.

4. Are the proceeds of an insurance-funded preneed contract taxable?

Insurance policy premiums and proceeds are not currently considered taxable income for U.S. Internal Revenue Service purposes.

5. Can I borrow the cash value of my insurance policy?

Yes. However, the estate must make up the difference in policy value at the time of death or the preneed contract may be terminated.

6. What if I cancel my life insurance policy that funds my preneed contract?

The insurance policy will be subject to surrender charges and perhaps a reduced cash value. The preneed contract will terminate when the insurance policy is canceled.

7. What if I fail to pay my insurance premium on my life insurance-funded preneed contract?

Life insurance policies continue the policy by paying the premium out of the cash value of the policy. Once the cash value is exhausted, the life insurance policy will be canceled causing termination of the preneed contract.

8. What if I cancel my trust-funded preneed contract prior to need?

Purchasers have the right to terminate a contract any time prior to use. A trust-funded contract may be canceled within 7 calendar days of the purchaser signing the contract. If this is done, there will be a 100 percent refund that will be received within 10 days. If a preneed contract is canceled after 10 days, the provider may keep up to 15 percent of the total contract price. If the contract is terminated after the death of the beneficiary, the heirs are entitled to a 100 percent refund of the contract price.

9. What if my heir(s) or designated representative wants to cancel the trust-funded preneed funeral contract?

Heir(s) or the designated representative may cancel the contract within 7 days of death and he or she will receive a full return of amounts paid.

Consumer Tips

- ✓ Be certain the funeral home, mortuary, cemetery, or licensed insurance producer is licensed with the State of Colorado as a preneed contract seller. For more information, log onto the Colorado Division of Insurance web site at: www.dora.state.co.us/insurance or call 303-894-7499.
- ✓ Ask a family member to accompany you while making the preneed funeral arrangements.
- ✓ Ask the preneed seller for a detailed price list of services and merchandise before you select anything.
- ✓ Before signing a preneed contract, read it carefully and understand all the provisions. Ask questions.
- ✓ If you purchase a preneed funeral arrangement, you should receive a copy of the contract that explains your rights and obligations, along with a written statement of all services and merchandise that you have purchased and the price.
- ✓ The contract must clearly state how it is funded (life insurance or trust-funded) and the terms of payment.
- ✓ If you are purchasing a trust-funded product, ask how your funds are secured.
- ✓ The written contract must state under what terms you may cancel your preneed contract and how much you will be refunded.
- ✓ The written contract is required to include to what extent the preneed seller or general provider is guaranteeing the prices of the merchandise and services you select. If the prices are not guaranteed, the preneed seller should explain who is responsible for paying additional monies that may be due at the time of the funeral.
- ✓ Thoughtfully consider before accepting an irrevocable agreement (a contract that cannot be canceled). Irrevocable agreements may limit your flexibility.
- ✓ Keep a copy of your plan in a safe place. Tell a close family member or a friend that you have made arrangements and where the documents are kept.

Additional Resources

Federal Trade Commission

CRC-240

Washington, D.C. 20580

1-877-FTC-HELP (382-4357)

<http://www.ftc.gov/bcp/online/pubs/services/funeral.htm>

AARP

601 E St. NW

Washington, DC 20049

Phone: 1-800-424-3410

<http://www.aarp.org/>

National Funeral Directors Association

13625 Bishop's Drive

Brookfield, WI 53005

Toll-free: 800-228-6332

<http://www.nfda.org/> (Please note that the address is **.ORG**, *NOT* .com)