

DEPARTMENT OF HEALTH SERVICES

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October 4, 1993

TO: All County Welfare Directors
All County Administrative Officers
All County Medi-Cal Program Specialists/Liaisons

Letter No.: 93-71

SUBJECT: ELIMINATION OF THE LIMIT FOR IRREVOCABLE BURIAL TRUSTS/CONTRACTS

The purpose of this letter is to provide counties with the attached draft regulations and to notify counties that the \$1800 limit for irrevocable burial trusts and contracts has been eliminated. This is due to a change in State law at Welfare and Institutions Code, Section 11158. Interest earned, or appreciation of the value of these funds shall also be exempt from the date the instrument is signed regardless of whether or not the person was on Medi-Cal or public assistance.

Counties shall implement these draft regulations no later than January 1, 1994. Final regulations will be submitted to the Office of Regulations within the next month.

As soon as the county becomes aware of such a case, the county shall, if applicable, rescind any discontinuance or denial due to excess property resulting from such funds and, if applicable issue retroactive Medi-Cal cards. The retroactive period may be as far back as September 1, 1984.

If you have any questions on this issue, please call Sharyl Shanen-Raya at (916) 657-2942.

Sincerely,

ORIGINAL SIGNED BY

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

Enclosure

Amend Section 50479 to read as follows:

50479. Designated Burial Funds.

(a) ~~Designated burial funds include burial trusts, prepaid burial contracts, burial insurance, annuities or any separately identifiable assets which are clearly designated as set aside for the expenses connected with the individual's burial, cremation, or other funeral arrangements.~~

(b) ~~The first \$1,800 paid in aggregate for~~ All of the following designated burial funds for funeral, cremation or interment expenses for an individual shall be exempt.

(1) Money or securities placed in an irrevocable trust for funeral, cremation, or interment expenses with the following trustees: any banking institution or trust company empowered by the State of California to act as trustee in the handling of trust funds, cemetery authority which has established an endowment care fund, or not less than three persons one of whom may be in the employ of a funeral director.

(2) Money or securities placed in an irrevocable trust created by the deposit in an insured savings institution made by one person of his or her own money in his or her own name as trustee for a funeral director to provide payment for funeral services rendered by the funeral director upon the depositor's death.

(3) Life or burial insurance purchased specifically for funeral, cremation, or interment expense, which is placed in an irrevocable trust or which has no loan or surrender value available to the recipient,

(4) Securities issued by a licensed cemetery authority which by their terms are convertible only into payment for funeral, cremation or interment expenses.

(e~~b~~) The first \$1500 paid for designated burial funds for funeral, cremation or interment expenses for an individual shall be exempt when the fund is revocable.

(e~~c~~) Designated burial funds include burial trusts, prepaid burial contracts, burial insurance, annuities or any separately identifiable assets which are clearly designated as set aside for the expenses connected with the individual's burial, cremation, or other funeral arrangements.

(e~~d~~) Interest earned on or appreciation in value of either an exempt irrevocable burial fund described in subsection (a) of this Section or revocable designated burial fund described in subsections (b) and (c) of this section shall be exempt if it is left to accumulate and become part of the separately identifiable burial fund.

(e) The amount of designated burial funds which are not exempt shall be included in the property reserve.

NOTE: Authority cited: Section 10724 and 14124.5, Welfare and Institutions Code. Reference: Section 7737, Business and Professions Code; Section 11158, -12152 and 14006, Welfare and Institutions Code; Sections 416.1201 and 416.1231, Title 20, Code of Federal Regulations; and Title 42, United States Code, Section 1396a(r)(1)(2).