

MISSISSIPPI DIVISION OF MEDICAID

Eligibility Policy and Procedures Manual

CHAPTER 300 - Resources

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302.06.05 BURIAL-RELATED RESOURCES

There are two different types of burial-related resources: burial spaces and burial funds. This section will discuss the distinction between the two and treatment under SSI and liberalized resource policy.

302.06.05A BURIAL SPACES

Burial spaces are spaces or items that are use to contain the remains of a deceased person. These include:

- Cemetery plots, crypts, mausoleums, cremation niches
- Caskets, urns
- Headstones or other grave markers
- Burial containers (burial vaults or grave liners)
- Expenses related to the opening and closing of the grave site
- Perpetual care expenses

302.06.05A1 TREATMENT OF BURIAL SPACES UNDER SSI AND LIBERALIZED RESOURCE POLICY

Procedure
<p><u>Burial Spaces – SSI And Liberalized Resource Policy</u></p> <p>A burial space or an agreement which represents the purchase of a burial space held for the burial of the individual, his or her spouse, or a member of his or her immediate family is an excluded resource, regardless of value. The burial space exclusion is in addition to, and has no effect on, the burial funds exclusion.</p> <p><u>SSI Exclusion:</u></p> <p>Burial spaces may be excluded if intended for use of :</p> <ul style="list-style-type: none">• Individual• Spouse• Immediate family<ul style="list-style-type: none">○ Parents – biological or adoptive○ Children – biological, adoptive or step○ Siblings – biological, half or step○ Spouses of the above, if currently married. Divorce negates the relationship.

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Treatment of Burial Spaces under SSI and Liberalized Resource Policy (Continued)

Procedure
<p><u>Liberalized Exclusion:</u></p> <p>Liberalized policy includes all of the relatives in the SSI definition above and extends to family members of any degree of relationship.</p> <p>Notes:</p> <ul style="list-style-type: none">• To be "held for" the burial of an individual , the item must be paid for in full - if not paid for in full, the amount paid is considered a burial fund rather than a burial space• Only one item serving the same purpose may be excluded per person. For example, exclude a casket and vault for the same person, but not a casket and an urn• No limit exists on the value that may be excluded• Taxes paid on burial spaces are also excluded• If a burial space is being held by a funeral provider in accordance with a burial agreement, whether revocable or irrevocable, then the value of the burial space(s) is excluded under the burial space exclusion

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302.06.05B **BURIALFUNDS**

Burial funds are items clearly designated for an individual's burial. They include:

- Revocable burial contracts
- Revocable burial trusts
- Other revocable burial arrangements (Including installment sales contracts for burial spaces)
- Cash
- Financial accounts such as checking, saving or CDs
- Stocks or bonds
- Life insurance cash value

Burial funds must be clearly designated for the eligible individual's burial, cremation or other burial-related expenses, i.e., flowers, clothing, transportation, etc.

Property other than that listed above will not be considered burial funds and may not be excluded under the burial funds provision. For example, a car, real property, livestock, etc., are not burial funds.

Designation of Burial Funds

Burial funds may be designated by:

- An indication on the burial funds document, such as a revocable burial contract or the title on a bank account. Whenever burial funds are already clearly set aside as burial funds, no separate signed statement or further designation is required.
- Completion of DOM-321B, Designation of Burial Funds, provides the information required to document a burial fund, i.e., owner, value and form of funds, date set aside for burial, etc.

Once a fund is designated, it remains a burial fund until eligibility terminates or the individual uses the funds for another purpose, in which case a penalty may apply. See discussion of Misuse of Burial Funds later in this section.

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Documentation of Burial Exclusion

DOM-321A, Burial Assets Exclusion Worksheet, is used to document the case record when the burial asset exclusion is applied. A separate worksheet is required for each person eligible to receive an exclusion, which includes:

- Eligible individual,
- Eligible or ineligible spouse,
- Eligible child
- Eligible or ineligible parent(s)

Effective Date

The burial fund may be excluded retroactively to the date the individual originally designated the funds for burial. Accept the individual's allegation of the date the funds were first considered set aside for burial (even prior to application) unless there is evidence the funds were used and replaced after that date.

Example: Mr. Hoover applies on May 1 and signs DOM-321B designating a CD for burial. He set the account up two years ago for his burial. He is seeking coverage for February, March and April. The exclusion may be given for those months.

Commingled Funds

Burial funds cannot be commingled with other resources which are not intended for burial. The burial fund exclusion applies only if funds set aside for burial expenses are kept separate from non-burial funds. If excluded burial funds are mixed with resources not intended for burial, the exclusion will not apply to any portion of the funds.

It is possible to have excluded and non-excluded funds commingled provided all funds are intended for burial. It is not permissible, however, to have burial and non-burial funds commingled.

Example: Mr. Brennan has a bank account with a balance of \$2,000. He plans to use \$1,500 for burial and the remaining \$500 for other non-burial expenses. The burial exclusion may not be applied to this bank account. Mr. Brennan may want to consider opening another account for the \$500. If he does so, he must provide verification and DOM-321B must be completed to document the burial exclusion.

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Burial Funds (Continued)

Designated Burial Funds vs Excluded Funds

Any amount may be designated for burial; however, only the amount up to the applicable maximum exclusion may be excluded. Once the amount of the designated burial funds equals the applicable maximum, the only additions to it that can be excluded are appreciation and interest.

However, until the maximum has been reached, additional amounts can be excluded if the individual designates them for burial expenses. Interest is not included in determining if the maximum has been reached.

302.06.05B1 EXCLUSION OF BURIAL FUNDS UNDER SSI POLICY

SSI policy allows up to \$1,500 in funds set aside for the burial of the individual and up to an additional \$1,500 in funds set aside for burial of the individual's eligible or ineligible spouse.

Example: Mr. Brown designates \$1,500 in a bank account for burial. The entire amount may be excluded.

Example: Mr. Brown designates an account with a \$2,000 balance for burial. Since \$1,500 is the maximum exclusion, the remaining designated funds are not excluded and count toward the resource limit.

302.06.05B2 EXCLUSION OF BURIAL FUNDS UNDER LIBERALIZED POLICY

Under liberalized policy, the maximum that can be excluded for burial of the individual is \$6,000. In addition, up to \$6,000 is allowed for burial of the eligible or ineligible spouse.

302.06.05B3 TREATMENT OF BURIAL FUNDS UNDER SSI AND LIBERALIZED POLICY

Reductions in Maximum Exclusions

The \$1,500 or \$6,000 maximum exclusion is reduced by:

- Any amount held in an irrevocable trust or burial contract or other revocable arrangement for the individual or spouse, if applicable, except to the extent it represents excludable burial spaces.

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Treatment of Burial Funds under SSI and Liberalized Policy(Continued)

- Face Value of any excluded life insurance policy on the individual or spouse, if applicable

Example (SSI): Greta Mann has a savings account designated for burial. It has a balance of \$2,000. She also has an irrevocable burial contract with Hartfield Funeral Home that represents burial space items worth \$2,500 and burial funds of \$1,500. The burial fund portion of the burial contract totally offsets the \$1,500 SSI burial exclusion: $\$1,500 - \$1,500 = 0$; therefore, the entire \$2,000 balance in the savings account is not excluded and counts toward the resource limit.

Example (Liberalized)

Greta Mann has an excluded life insurance policy with a Face Value of \$5,000. She also has a savings account with a balance of \$4,000 that she designates for burial. The \$6,000 burial exclusion is partially offset by the Face Value of her policy: $\$6,000 - \$5,000 = \$1,000$. Therefore, \$1,000 of her savings may be excluded and the remaining \$3,000 in non-excluded burial funds is a countable resource.

Irrevocable Burial Arrangements

Irrevocable burial arrangements are not resources and are not subject to the \$1,500 or \$6,000 maximums; however, as indicated above, they do reduce the amount of the burial fund exclusion allowed. Burial insurance is considered an irrevocable arrangement.

Value of Burial Arrangements Equal to Value of Pre-Payment

The value of the irrevocable burial arrangements purchased by the individual must be equal to the value of the funding source used to make the purchase, e.g., cash prepayment, life insurance or annuity irrevocably assigned to the funeral home.

If the value of the burial arrangement is not equal to the value of the prepayment, a penalty may be assessed under the transfer of assets provision for institutionalized clients.

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Treatment of Burial Funds under SSI and Liberalized Policy (Continued)

Changes in Burial Exclusion Amounts

The maximum amount that can be excluded when a burial fund is initially designated is \$1,500 under SSI resource rules or \$6,000 under liberalized policy. Interest earned on excluded burial funds and appreciation in the value of excluded burial arrangements are excluded as income and resources if left to accumulate and become part of the separate burial fund.

Changes in the individual's circumstances may raise or lower the amount that can be excluded for burial, such as:

- The purchase of additional life insurance with cash surrender value may change the allowable exclusion. In addition, cashing in life insurance may raise or lower the allowable exclusion.
- The face amount of life insurance may change, thereby changing the allowable exclusion.
- An irrevocable burial contract may be purchased, thereby reducing the allowable burial exclusion.
- Deposits made to bank accounts designated for burial will change the allowable exclusion.
- If the amount designated is less than the maximum exclusion, the individual may add additional funds to the burial fund to bring up the original amount to the maximum exclusion amount.

NOTE: A decrease in the value of any excluded burial funds will be subject to a penalty for misuse, which is discussed later in this section.

Reevaluation of Burial Funds

The burial fund exclusion once applied must be reevaluated whenever a change becomes known that would affect the exclusion amount or at each redetermination. It is not necessary for the client to sign a new DOM-321B unless there is a new or revised designation of funds. If there is a change in the amount of the exclusion, a new DOM-321A, Burial Assets Exclusion Worksheet, must be prepared. Otherwise, the most recent DOM-321A should be updated.

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Treatment of Burial Funds under SSI and Liberalized Policy (Continued)

At each redetermination:

- Verify the requirements for exclusion are still being met
- Verify the current value of the fund
- Determine if increased value is interest or another type of addition
- If the fund contains both excluded and non-excluded amounts, use the formula below to determine the excludable portion:

Original exclusion amount ÷ Original fund amount × Present fund amount = Excluded Portion

Example: An individual, subject to SSI rules, designated \$2000 (original fund amount) as a burial fund, \$1500 (original exclusion amount) was excluded and \$500 is non-excluded. At the most recent review, the account had grown to \$2200 (present fund amount) due to accumulated interest.

The excluded amount is \$1650. $(1500 \div 2000 \times 2200 = 1650)$

Misuse of Burial Funds

If funds, including interest, that were excluded under the burial fund exclusion are used for any purpose other than burial expenses for the designated individual, a penalty for misuse is imposed only if the client would have excess resources without the burial exclusion.

Upon discovery of the misuse of excluded burial funds, the specialist will obtain verification (which may be in the form of a statement from the client or representative) that all or a portion of the funds have been used for another purpose other than burial. The specialist will then determine the effect the misuse will have on eligibility.

Penalty for Misuse

If the client would have excess resources without the burial fund exclusion, the amount used inappropriately is counted as income the next possible month after the month in which the misuse is discovered. The misused funds will be included as income in the eligibility computation; however, misused burial funds are not counted as income in the Medicaid Income computation for the institutionalized individual unless the funds are available to the recipient.

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Treatment of Burial Funds under SSI and Liberalized Policy (Continued)

If the misused funds include non-excluded burial funds, assume the funds were used in this order:

- Non-excluded interest
- Non-excluded designated amount
- Excluded interest
- Excluded designated amount

The penalty only applies to excluded interest and designated amounts.

If ineligibility results, the case will be closed in accordance with ongoing policy, i.e., advance notice issued, etc. If the misuse of burial funds does not result in excess income because the client's resources would not exceed limit even if the burial funds were not excluded or if applicable, the funds are not available to the client to include in the Medicaid Income computation, no action is required other than documenting the case record.

DOM-321B is required to redesignate funds when there is a change in the amount of funds originally designated, not including accumulated interest or appreciation. If eligibility is lost, the burial fund exclusion must be developed if the individual reapplies later.

Example: Jennifer Shows originally designated \$1,500 as a burial fund. Interest accumulated and the account grew to \$1,750. In May, she withdrew \$500 to repair her car. If her other resources plus the \$1750 burial fund, which is now non-excluded, exceed the program resource limit, the penalty applies.

In addition, she must redesignate the amount of funds for burial because the amount in the account (\$1,250) is now below the original amount designated. In the alternative, she could add \$250 to the account and the original designation would be accurate; however, any penalty would still apply.

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302.06.05C PRE-NEED BURIAL CONTRACTS

A pre-need burial contract is an agreement between an individual and a funeral home where the buyer pays in advance for his or another person's burial arrangements. If an applicant's resources exceed the allowable limit, he is allowed to establish a pre-need contract to reduce his resources below the limit.

Pre-Need Burial Contracts Including Burial Spaces and Burial Funds

Many pre-need contracts include both burial space and burial fund items. Expenses related to the burial space include: casket, vault, opening/closing costs at the cemetery. Expenses related to the burial fund include: embalming, clothing, visitation room, transportation, flowers.

There are two types of pre-need burial contracts: revocable and irrevocable. Each is described below, as well as, how they are treated in the eligibility determination. Payment for a contract has taken place when an applicant/recipient transfers a liquid resource to the funeral provider or when specific life insurance policies have been designated on the pre-need burial contract.

A liquid resource designated, but not transferred to the funeral provider as payment for a contract, is counted as an available resource. A resource cannot be designated for future payment of a pre-need contract and that resource be excluded as a resource.

302.06.05C1 REVOCABLE PRE-NEED BURIAL CONTRACTS

Revocable contracts may be sold or the money may be refunded. They are considered resources; however, a full or partial exclusion may be developed:

Revocable Contracts That Are Paid in Full

If the value of all the items is provided, both the burial space and the burial fund exclusion may be developed. If the value of the burial space items is not provided, only the burial fund exclusion may be developed.

Revocable Contracts That Are Not Paid in Full

Only the burial fund exclusion may be developed unless the contract verifies the burial space items are paid for and the burial funds items are being paid on.

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Revocable Pre-Need Burial Contracts (Continued)

Procedure

Revocable Pre-Need Contracts - SSI and Liberalized Resource Policy

Verification

- Copy of contract
- Statement from provider of service

Treatment

- Revocable pre-need burial contracts are considered a resource. A burial exclusion may be developed. DOM-321B must be completed and signed
- **If the contract is paid in full:**
 - Any portion of the contract clearly representing burial spaces may be excluded entirely, regardless of value
 - Up to \$1,500 (SSI) or \$6,000 (Liberalized) of the remaining portion of the contract may be excluded as a burial fund
- If the contract is not paid in full, it should be treated as a burial fund unless it is verified that the burial spaces themselves are paid in full and considered "held for" the individual

Example: Mr. Allen applies for Medicaid. He has just purchased a revocable contract at Land of Lakes Funeral Home. The contract verifies it is paid in full and includes the following:

\$1,500	Casket
\$1,000	Vault
\$1,000	Headstone
\$500	Opening/closing costs
\$200	Embalming
\$300	Visitation Room
\$1,000	Funeral service

Because the contract is paid in full, the first four items, which are burial space items, may be excluded under the burial space exclusion. The remaining \$1,500 may be excluded under the burial fund exclusion.

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302.06.05C2 IRREVOCABLE PRE-NEED BURIAL CONTRACTS

Procedure

Irrevocable Pre-Need Contracts - SSI and Liberalized Resource Policy

Irrevocable contracts are not a resource since the money cannot be refunded or the contract sold without significant hardship.

Verification

- Copy of contract
- Contact with service provider

Treatment

If the contract is irrevocable:

- It is not a resource to the individual
- It is not considered a resource retroactive to the date it was purchased
- The portion that represents burial funds offsets the burial fund exclusion amount (\$1,500 SSI/ \$6,000 liberalized)
- If the contract is not paid in full, the portion paid represents burial funds and is excluded up to the maximum

Example: Mrs. Appleton applies for Medicaid. She has a savings account worth \$5,500 and a life insurance policy with a Face Value of \$20,000 and Cash Surrender Value of \$800 that she had designated for her burial. Since her resources exceed the limit, she uses \$4,500 of her savings to purchase an irrevocable pre-need burial contract. A copy of the contract verifies she paid \$1,500 for the casket, \$1,000 for the vault, \$500 for the opening/closing of the grave and \$1,500 for the funeral. Since the contract is irrevocable, it is not a resource and not countable.

Treatment of Example under SSI Rules

The \$1,500 in the contract for the funeral totally offsets the \$1,500 burial fund maximum. The \$800 CSV of life insurance the client designated for burial becomes a countable resource. Her countable resources are: savings - \$1,000, CSV of life insurance - \$800 = \$1,800 countable resources.

Treatment of Example under Liberalized Rules

The \$1,500 in the contract for the funeral plus \$800 CSV from the life insurance policy the client designated for burial totals \$2,300 in designated burial funds. Her countable resources are: savings - \$1,000.

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302.06.05D LIFE INSURANCE FUNDED BURIAL CONTRACTS

A life insurance funded burial contract involves an individual purchasing a life insurance policy on his own and then assigning, revocably or irrevocably, either the proceeds or ownership of the policy to a funeral provider. The purpose of the assignment is to fund a burial contract. Life insurance funded burial contracts are not considered burial insurance.

Effect of the Assignment of Ownership on Burial Exclusion

- **Revocable Assignment**
 - The burial space exclusion does not apply because the items are not paid for until the death of the individual and therefore are not being “held for” the individual
 - The burial fund exclusion may apply. The resource value of the burial contract is equal to the Cash Surrender Value of the life insurance, subject to the maximum burial funds exclusion amount.

- **Irrevocable Assignment**
 - The burial space exclusion may apply if the values of the items are provided.
 - The life insurance policy is not a resource because the individual no longer owns it
 - The contract is not a resource because the individual no longer owns it
 - The value of the burial fund items offsets the value of any other burial funds items up to the allowable maximum

Effect of the Assignment of Proceeds on Burial Exclusion

When life insurance proceeds are assigned, the burial space exclusion does not apply because the provider will not be paid until the death of the individual and spaces are not being “held for” the individual. The resource value of the contract is the cash surrender value of the life insurance policy.

If the Face Value of all life insurance policies for the individual total \$1,500/\$6,000 or less, exclude the CSV under the life insurance exclusion. If the FVs total more the \$1,500/\$6,000, verify and count the CSV toward the resource limit. The burial fund exclusion may apply.