

19.5 INDIGENT BURIAL PROGRAM

A. Introduction

The purpose of the Indigent Burial Program is to provide a decent burial for persons who die and have no resources to pay for the interment costs at the time of death.

B. Eligibility Requirements

When making the decision regarding the eligibility for payment of the burial rates, the Worker must give consideration to the following criteria.

1. Residence

The deceased must have been a resident of West Virginia at the time of death in order to be eligible for a burial payment. (See exception below.) Individuals who have left West Virginia for the purpose of residing in other states (or who have become residents in other states) and later de cease are ineligible for Burial Program benefits.

2. Exception to the Residence Requirement

One exception applies to the residence requirement. This occurs when a non-resident of West Virginia deceases while traveling or visiting in the state and has no family, friends, or institution in the state of his residence that will assume responsibility for the funeral arrangements or otherwise claim the body. The Worker must verify that this situation exists before the case may be found eligible for payment.

3. Need

Resources of the deceased shall consist of readily available liquid assets such as, but not limited to, life insurance policies, burial trust funds, cash, checking and/or savings accounts, certificates of deposits, etc.

If the applicant indicates that, for an adult burial, the deceased had at least \$1,950 in available resources, the Worker must find the case

ineligible for benefits.

4. Responsible Relatives

If a responsible relative (i.e., one who is LIABLE or one who simply wishes to pay the allowable amount) indicates that he agrees to make the allowable payment of \$1,950, the Worker must find the case ineligible for payment of burial.

If the responsible relative agrees to pay any amount less than the allowable amount or indicates that he cannot make any payment toward the allowable amount, the Worker will find the case eligible for a burial payment providing all other eligibility requirements are met.

5. Maximum Allowable Payment

The maximum allowable payment is a ceiling or limitation on the amount of payment that can be received by the funeral home when the Department participates in the payment of a burial. The extent of the Department's participation, or the amount of the program benefit, is determined by the burial rate and, when applicable, the amount which exceeds the maximum allowable payment.

The maximum allowable PAYMENT is not to be confused with the burial RATE. The maximum burial RATE is the amount the Department will make toward the cost of all funeral-related expenses.

The maximum allowable payment is also used to establish eligibility for a burial payment in relation to the resources of the deceased and to contributions made by responsible relatives.

Finally, the maximum allowable payment is used to establish the amount of resources (i.e., payment received from sources other than the Department) that may be received by the funeral home before the maximum burial rate is reduced. The maximum allowable payment for burials may not exceed \$1,950. The amount of resources that are EXEMPTED before being applied to the burial rate is \$1,200 (exempted resources amount of \$1,200 + burial rate of \$750 = \$1,950). THEREFORE THE DEPARTMENT WILL NOT PARTICIPATE IN THE BURIAL COSTS WHEN THE TOTAL AMOUNT OF RESOURCES RECEIVED BY THE FUNERAL DIRECTOR FOR A BURIAL IS \$1,950 OR MORE. When the amount of resources exceeds \$1,200 but is less than \$1,950, that amount (the excess) will be deducted from the adult burial rate.

6. Interment Plans

The following instructions describe the casket and merchandise that must be used when the Department makes payment for burial. In addition, certain types of allowable interment plans are described.

The burial rate will include the funeral service, casket, outside wood or concrete box, clothing and transportation. There is no extra allowance for local or long distance transportation for the deceased.

a. Casket and Casket Size

The following is a description of the type of casket WHICH MUST BE USED when the Department is making payment of the burial rate:

A casket shall be at least but shall not exceed a Flat Top or Oval Top constructed with wood or wood products and covered with such exteriors as doeskin, lambskin, moleskin, plain or embossed cloth. The outside container shall consist of wood or concrete box.

NO CASKET OR OUTSIDE CONTAINER OTHER THAN THAT AS DESCRIBED ABOVE SHALL BE USED UNLESS

THE FUNERAL DIRECTOR HAS NO CASKET OR OUTSIDE CONTAINER (as described above) AVAILABLE AND HE AGREES TO ABSORB THE HIGHER COST OF A MORE EXPENSIVE CASKET OR OUTSIDE CONTAINER.

IF ANYONE (e.g. relative, friend, etc.) PROVIDES A BETTER OR MORE EXPENSIVE CASKET OR OUTSIDE CONTAINER THAN THAT AS DESCRIBED ABOVE, THE DEPARTMENT WILL NOT PARTICIPATE IN THE PAYMENT OF THE BURIAL EXPENSES.

b. Cremation

The person who has made application for burial expenses may request that the deceased be cremated. Cremations are allowed under the burial program policy. However, the applicant and funeral home director must understand that the burial rate (\$750) and maximum allowable payment (\$1,950) will apply to cremations as in any other interment plan.

c. Burial of Two Bodies in One Casket

In certain rare situations when it is warranted by the condition of the bodies or when it is desired by the family, the Department will make payment for the burial of two bodies in one casket.

The following conditions must exist before the Department will make payment for this type of interment plan:

- The family or the person who has taken the responsibility for the burial arrangements AND the Funeral Home Director MUST agree to this type of interment.
- The appropriate burial rate will be based upon the size of the CASKET used for the interment.

EXAMPLE: Two infants are buried in a casket. The Department will pay only the burial rate of \$750 and apply the maximum allowable payment of \$1,950.

7. Application Submittal Deadline

Payment for burial expenses CANNOT BE MADE unless the application form has been completed and the applicant found eligible for payment AND the date of interment or cremation did not occur more than 30 days prior to the date of application.

C. Burial Rate

The burial rate of \$750 is the MAXIMUM amount that will be disbursed by the Department. This rate will apply for ALL burials. Under no circumstances is this rate negotiable regardless of the specific burial plan desired by the applicant.

D. Development of Resources

The development of resources is a joint responsibility of both the Department and the funeral home director. However, the Department's activity in the development of resources is limited to the estate of the deceased and only in situations when the estate is sufficiently valued to obtain up to \$750 reimbursement to the Department.

The funeral director may develop resources from many different sources. Whenever the director develops an amount of resources that exceeds the exempted resource amount (\$1,200) the Department will deduct this amount from the rate. When the funeral director receives resources which exceed the exempted resource amount AFTER payment is received from the Department, the Department must be reimbursed by the funeral home director.

EXAMPLES:

#1 The funeral director receives payment of resources on a burial for \$1,400.

\$1,400	Resources
<u>-\$1,200</u>	Exempted resource amount
\$ 200	Excess
\$ 750	Burial Rate
<u>-\$ 200</u>	Excess
\$ 550	Amount of payment received by the funeral director from the Department.

\$1,400	Resources
<u>+\$ 550</u>	Burial Payment
\$1,950	Maximum allowable payment (total payment received by the funeral director)

#2 The funeral director receives payment of resources on a burial for \$500.

\$ 500	Resources
<u>-\$1,200</u>	Exempted resource amount
\$ 0	Excess
\$ 750	Burial Rate
<u>-\$ 0</u>	Excess
\$ 750	Amount of payment received by the funeral director from the Department.

\$ 500	Resources
<u>+\$ 750</u>	Burial Payment
\$1,250	Total payment received by the funeral director

In example #2, the Funeral Director is entitled to receive \$700 in additional resource before the maximum allowable payment of \$1,200 is reached. Assume further that the funeral director receives \$800 in additional resources after the burial payment from the Department was received. The funeral director must reimburse the Department \$100 because the maximum allowable payment was exceeded by \$100.

1. Resources Obtained for Burials

Resources of up to \$1,200 may be obtained toward the cost of a burial for a total maximum payment

of \$1,950 before the resources are deducted from the burial rate.

Examples:

	Resources	Program Benefit	Total Maximum Payment
#1	\$1,200	\$750	\$1,950
#2	\$1,350	\$600	\$1,950

2. Resources Due the Department

The Department is entitled to receive resources from the following sources:

- The deceased's estate and
 - Reducing the amount of the appropriate burial rate by applying that amount of resources (developed by the funeral director) which exceeds the exempted resource amount as explained above.
- a. Form OFS-BU-3, Affidavit of Burial Costs and Supporting Documentation

The Department will seek reimbursement of burial costs by filing the Affidavit of Burial Costs with the office of the County Clerk having jurisdiction of the deceased's estate (the county in which the deceased maintained his residence or the county in which the deceased owned real estate). This action is taken only when the value of the deceased's estate warrants such action. The Worker must attempt to obtain sufficient information about the deceased's estate in order to make decisions to seek reimbursements. If the Worker determines that the minimum value of the estate is \$750 after the costs of administration are deducted, the decision should be to seek reimbursement.

According to the West Virginia Code, supporting documentation must be submitted

with the ES-BU-3 form when it is submitted to the Office of the County Clerk. This documentation will be a copy of the DF-67-A Burial Billing Form (Refer to Item F, Burial Payment Process) and a copy of the Accounts Payable Monthly Burial Report. The Monthly Burial Report is a list of names of the deceased for each county with the vendor name, document I.D. number, warrant number, warrant date and the amount of payment made by the Department to the vendor. This document fulfills the requirement that verification of an actual payment must be made just as the DF-67-A form verifies that an actual request for payment was made by the vendor. The ES-BU-3 form establishes that the Department has filed a claim against the estate. Each month, Accounts Payable, Office of Financial Services will prepare the Monthly Burial Report showing a list of deceased persons based on the DF-67-A forms submitted for that month. The Financial Clerk will submit to the County Clerk one copy of the Monthly Burial Report plus one copy of the DF-67-A and one copy of the OFS-BU-3 Affidavit of Burial Costs for each name on the list. If it has been determined that an estate does not exist or insufficient resources in the estate precludes the necessity of establishing a claim, the Financial Clerk will cross out the deceased's name on the list and not submit supporting documentation for that burial.

b. Instructions for Completing Form OFS-BU-3

The Financial Clerk will complete the OFS-BU-3 form on those cases in which it has been determined that the estate is valued at \$750 after administrative costs have been deducted. The Affidavit of Burial Costs is a form letter and is completed as follows:

Introductory Statement

The Financial Clerk will enter the name and address of the County Clerk. The name of the

deceased and the amount of the claim will be entered in the spaces provided. The amount of the claim shall not exceed \$750.

Affidavit and Verification

- The Financial Clerk shall enter her name, the amount of the claim against the deceased's estate, and the name of the deceased in the spaces on the form.
- The Financial Clerk will sign her name in the "AFFIANT" space and obtain the signature of the Notary Public.
- The OFS-BU-1 plus a copy of the DF-67-A Burial Billing form will be attached to the Monthly Burial Report and submitted to the County Court.

c. Reimbursement from the Deceased's Estate

When the Financial Clerk receives reimbursement from the deceased's estate for the amount of the burial costs paid by the Department, she will make a direct deposit of this reimbursement to the burial program for the fiscal year the burial was paid.

3. Resources Due the Funeral Director

a. Types of Resources

It is the responsibility of the person who made the funeral arrangements and the funeral director to apply for and develop the following potential resources which may be available to meet burial expenses:

(1) Statutory Death Benefit Plans

(a) Social Security

(b) Veteran's Administration

(c) Worker's Compensation

(d) United Mine Worker's Association

(e) Other statutory death benefits

(2) Private Death Benefit Plans

(a) Life Insurance

(b) Prepaid Burial Trusts

(c) Other private death benefit plans

(3) Contributions from friends and relatives

(4) Automobile Liability Insurance

(5) Other

b. Treatment of Resources

All resources will be treated alike, regardless of whether the deceased was a recipient of public assistance or any other type of benefit from the Department or other agencies. Please note that the treatment of resources discussed in this section is EXCLUSIVE of resources received by the Department from the deceased's estate as discussed above.

E. Application Process

1. General Instructions

Although it is preferable that the application for payment of burial expenses be made by the surviving spouse or other close relative, the application may be made by the person who has accepted responsibility for making burial arrangements.

Form OFS-BU-1, Application for Burial Expenses, will be used in taking applications for payment of burial expenses.

Form OFS-BU-2, Affidavit of Responsible Relative, is used to determine whether certain relatives, who are designated under State Law as liable for burial expenses, are financially able to make payment of all or part of the maximum payment allowed by the Department. In order to maintain the Department's policy of developing all possible resources, other relatives who are NOT designated under State Law as liable for burial expenses are also evaluated as to their ability and willingness to pay all or part of the appropriate burial rate.

2. Liability of Responsible Relatives

As indicated in the Public Welfare Law (9-5-9, liability of relatives for support) certain relatives of the deceased who are financially able shall be responsible to pay the expenses of burial. These relatives are listed in the order of priority:

- The children
- The father
- The brothers and sisters
- The mother

"Financially able" is defined as the responsible relative's financial ability to make payment toward or the entire maximum payment allowed by the Department.

Please note that a spouse is NOT considered under state law a responsible relative liable to pay the burial costs.

In many situations, other relatives (spouse, nephew, niece, etc.) who are NOT legally liable for payment of burial costs will take the responsibility for arranging the burial and make applications for burial expenses.

3. Completion of Form OFS-BU-1, Application for Burial Benefits

Form OFS-BU-1 must be completed when an individual has requested payment for burial. Payment for burial expenses CANNOT BE MADE unless this form has been completed and the applicant found eligible for payment AND the date of interment or cremation did not occur more than 30 days prior to the date of application.

Generally, the county in which the individual resided at the time of death will assume the responsibility for accepting the application and making payment for eligible individuals. When the individual did not die in the county of his residence, the following instructions will apply:

- When the deceased dies in another county or state while visiting or receiving medical treatment, the county of residence will assume responsibility for accepting the application and making payment.
- When the deceased dies in a state institution or nursing home, that facility will contact relatives who will take charge of the burial arrangements. In most situations, the relatives will have the deceased returned to the county in which he resided prior to his death. When this occurs, the county in which the deceased has been returned will accept the application and process payment.
- Situations may occur, however, when the person who has taken charge of the funeral arrangements (including the institution or

nursing home administration) may wish to inter the deceased within the county in which the institution or nursing home is located. When this occurs, that county will accept the application and process payment.

- When a non-resident of West Virginia dies while visiting or traveling through the state, the county in which he dies will assume the responsibility for accepting the application and, if eligible, process payment. This procedure will apply only in these situations when the plan is to have the deceased buried in this state. However, situations may occur when someone from another county has taken responsibility for the funeral arrangements and wishes to have the deceased interred in that other county. When this occurs, the other county will accept the application and process payment.
- If so desired by the applicant, a burial application can be received via the mail. If the applicant wants to apply through the mail, the Worker will mail the application forms with an accompanying letter of instructions that includes a deadline for returning the completed application through the mail. The instructions will also request a copy of the death certificate and the deceased's social security number if not included on the certificate. After the application is received through the mail, the Worker will carefully review the completed application form and make a decision regarding eligibility or request the applicant to supply additional information.

Instructions for Completing Form OFS-BU-1

Section A and B - Identifying Information

The required identifying information in these two sections is self-explanatory. If the deceased was a non-resident of West Virginia at the time of death, the applicant must explain WHY the deceased is to be buried in West Virginia. This explanation is needed in

order to assure that family and relatives have been notified and are aware that the deceased will be buried in West Virginia.

Section C - Your Relationship to the Deceased

If the applicant indicates that he is a , father, brother or sister or mother of the deceased (liable relative), he MUST complete Form OFS-BU-2, Affidavit of Responsible Relative. If the applicant indicates that he is not a liable relative, he will be REQUESTED to complete Form OFS-BU-2 for the purpose of developing potential resources.

Section D - Need and Estate of the Deceased

The applicant must place an "X" on the line next to the statement which indicates his knowledge of whether the deceased's estate had sufficient resources equal to the maximum allowable payment. If the applicant places an "X" on the second line, he is indicating that the estate had at LEAST \$1,950 in resources to pay for the burial costs. When this occurs, the case will be found ineligible for a burial payment.

Section E - Heirs of the Deceased

The applicant must complete this section which involves questions about the heirs of the deceased.

Section F - Resources

The applicant must indicate the type and amount of resources received or to be received toward the burial expenses. It will be the responsibility of the applicant to report this accurately and completely. It may be necessary for the applicant to contact the funeral director regarding this item to insure accuracy. Finally, the Worker should inform the applicant that the DF-67-A burial billing form submitted by the funeral director will be compared with Section F for discrepancies.

Section G - Signatures

The applicant must read each of the four statements and place an "X" in "Yes" or "No" prior to signing and dating the application form. The Worker should ask the applicant if he understands each of the four statements and verbally explain any of the statements that the applicant does not understand.

The applicant must sign and date the application form.

The Worker must enter the following information in the recording section:

- Action taken on the application - This will include approval, denial or pending status of the application. In addition, the Worker will indicate if the OFS-BU-2 form was completed by a responsible relative and any other information as required.
- The Worker shall also indicate whether the deceased was receiving any program benefits from the Department at the time of his death.

4. Completion of Form OFS-BU-2, Affidavit of Responsible Relative

The purpose of the Affidavit of Responsible Relative is two-fold. First, it is used to determine financial ability of those responsible relatives who are liable for the burial costs of the deceased.

Second, it is used to determine sufficient ability of those relatives who wish to contribute to the burial costs but are not liable.

Therefore, Form OFS-BU-2 will be completed by the applicant in the following circumstances:

- When the applicant is a relative who is **LIABLE** for the burial costs of the deceased, Form OFS-BU-2 **MUST** be completed. If the

relative refuses to complete the form, the application will be denied.

- When the applicant is a relative who is NOT LIABLE for the burial costs, the Worker will REQUEST the relative to complete the form for the purpose of developing resources. However, he may refuse to complete the form. If so, the application CANNOT BE denied.
- When the applicant is not a relative of the deceased, the Worker will NOT request the applicant to sign the form.

The completion of the form is self-explanatory. The Worker shall explain to the person signing the form that witness signatures are required only when the person signs the form with his "mark". In this situation, the persons who act as witnesses must actually see the person place his "mark" on the form.

5. Decision on the Application

After the applicant has completed the application form (OFS-BU-1) and the Affidavit of Responsible Relative (OFS-BU-2), the Worker can take the appropriate action on the application:

- Have all questions on the application form been answered by the applicant and has the form been signed and dated by the applicant? The Department will NOT make payment if the OFS-BU-1 form is not completed or completed improperly.
- If a LIABLE RELATIVE made application, has the Affidavit of Responsible Relative been completed? If not, the application must be denied.
- Did the relative who signed the OFS-BU-2 form, Affidavit of Responsible Relative, agree to pay for the burial costs? If so, the application will be denied.
- Did the applicant indicate in Section D of the OFS-BU-1 form that the deceased had

sufficient resources to pay for the burial costs? If so, the application will be denied.

- Did the applicant indicate in Section F of the OFS-BU-1 form that sufficient resources will be applied toward the burial that is equal to or exceeds \$1,950? If so, the application will be denied.

After consideration is given by the Worker to the above items, he will make a decision regarding the eligibility for payment of burial costs and make a recording on the application form to support his decision.

F. Burial Payment Process

The DF-67-A Burial Billing Form is completed by the funeral home director and submitted to the Department. It is used in the payment process for the purpose of determining the amount of payment to be made by the Department to the funeral home director.

1. Responsibilities of the Funeral Director

As indicated above, the funeral director will complete the DF-67-A form. If any questions arise in completing the form, the funeral director should consult the Funeral Director Handbook or contact the Worker.

2. Responsibilities of the Income Maintenance Worker

The Income Maintenance Worker and his Supervisor will enter their signatures and the date upon the completed DF-67-A form if the case was found eligible for burial benefits. In addition, it will be the responsibility of the Worker to compare the resources reported by the funeral director on the DF-67-A form with the resources reported by the applicant on the OFS-BU-1 application form. Any discrepancies must be resolved by contacting the applicant and funeral director. Approval will be withheld until the discrepancies are resolved. If necessary, the Worker may request verification of statements or claims made by the applicant or the funeral

director. The purpose of this procedure is to provide authorization for payment since payment to the funeral director is handled through the Office of Financial Services.

3. Responsibilities of the Financial Clerk

The Financial Clerk will receive the DF-67-A, Burial Billing Form, from the funeral director. Upon receipt of this invoice, the Financial Clerk will be responsible for pre-auditing and editing. Items to be reviewed before submittal for payment are:

- F.E.I.N. in the upper right-hand corner
- County number and mailing address
- Legible vendor name and mailing address
- Correct payment amount on Line Item 7 or Item 9
- Date of Death
- Date of Interment
- Proper signatures and dates entered

Upon completion of the audit, the Financial Clerk must stamp the DF-67-A with a certification stamp and sign and date the spaces made by the stamp. Next, an original and two copies of the DF-67-A will be submitted to the Office of Family Support. All back-up material pertaining to the burial will remain in the county office.

In order for the Financial Clerk to have a record of burials submitted for payment, a Log for Burial Payments will be maintained in each county office. On this log, the following items are suggested:

- Date DF-67-A received for payment
- Name of vendor
- Name of deceased
- Date DF-67-A submitted to the Office of Family Support
- Date Accounts Payable Monthly Burial Report was received from the Office of Family Support

Situations may occur when the funeral director has indicated on the DF-67-A form (#10) that he has applied for but did not receive certain resources at the time of burial.

When this occurs, the Financial Clerk must develop a control to contact the funeral director every 60 days from the date entered on the DF-67-A form to determine if he received the resource.

If the funeral director receives any resources at a later date, he will be required to reimburse the Department if these resources:

- are in excess of the exempted resource amount
- when added to the resource received at the time of burial are in excess of the exempted resource amount.

EXAMPLE: Funeral director submits a DF-67-A for a burial. Resources received at the time of burial are \$550. Since the resource of \$550 did not exceed the exempted resource amount of \$1,200, the funeral director received a check for \$750 from the Department. Later, the Financial Clerk has determined that the funeral director received additional resources in the amount of \$745.

Total resources received by the funeral director comes to \$1,295 ($\$550 + \$745 = \$1,295$). The exempted resource amount has been exceeded by \$95 ($\$1,295 - \$1,200 = \95).

The funeral director must reimburse the Department for \$95.

Computation procedures when the actual cost of burial is less than the amount of payment

requested from the Department and/or resources due the Funeral Director.

In order to use this computation procedure, it is first necessary to compute the amount of payment requested from the Department as outlined on the DF-67-A, Burial Billing Form, Items #2 through #7.

Secondly, the ACTUAL COST incurred in providing the burial is used in computing the amount of payment entitled to the funeral home.

Reserved for future use.