

ELDER LAW TODAY

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Think Before You Purchase: Medicaid Does Not Consider All Funeral Plans "Exempt"

When Elizabeth received the call from her brother telling her that he had just placed their mother, Gertrude, into a Kansas nursing home, she took the first available flight to Kansas City. Elizabeth was her mother's durable power of attorney for financial decisions and knew there were a number of things she needed to do to make sure her mother's financial affairs were in order.

Elizabeth knew quite a bit about Medicaid coverage for nursing home costs, as her aunt had entered a Kansas nursing home just a few months ago. Elizabeth remembered the exempt assets her aunt was able to keep, as well as those things her aunt purchased with her non-exempt assets, as part of her "spend down," in order to qualify for Medicaid.

Elizabeth knew that her mother would be able to purchase a funeral plan as part of her spend down. Her aunt had an irrevocable funeral plan she purchased when she lived in Florida, which included flying her to Florida to be buried next to her husband. The cost was over \$12,000. The entire plan was exempt. So Elizabeth purchased a funeral plan for Gertrude in Kansas, in the amount of \$10,000 (an amount greater than she thought she would use, because the funeral home said they would refund to Elizabeth any unused funds).

Gertrude remained private pay until she spent down to \$2,000 and then applied for Medicaid. However, Gertrude was denied Medicaid coverage due to excess resources. Elizabeth was certain that the application was wrongfully denied. When her attorney asked Elizabeth what assets her mother had, she said, "Nothing. My mother has a checking account with only \$1,800, a funeral plan of \$10,000, and a life insurance policy with a face value of \$1,800." The attorney explained the State was correct in denying her mother for benefits and Elizabeth said her aunt had \$1,900 in her checking account and a funeral plan worth \$12,000 when she qualified for benefits only three months ago.

She learned there were two distinguishing circumstances: 1) her aunt had an *out of state* funeral policy that was irrevocable; and 2) her aunt did not have a life insurance policy. She then learned how Kansas Medicaid treats funeral plans and insurance policies.

In regard to the funeral plans, she learned that her aunt's funeral plan was exempt because there is no limit on irrevocable funeral arrangements from other states. Gertrude's plan, however, is subject to certain restrictions because it was purchased in Kansas. One of the problems with the plan Elizabeth purchased for Gertrude was that it was not irrevocable. Secondly, although Kansas does not limit the merchandise (caskets, headstones, graveliners, etc.), there is a limit of \$5,000 in services. Elizabeth was advised to adjust Gertrude's funeral plan and limit the services accordingly and then make it irrevocable.

Elizabeth was informed that if the funeral home did have excess funds after rendering her mother's funeral services, the excess would be claimed by Kansas Estate Recovery. So there was no benefit to her buying excess services in hopes that she would shelter some of her mother's resources.

Next, Elizabeth learned that in Kansas, although life insurance policies are exempt as long as the total face value of all the policies is less than \$1,500, the *face value* of Gertrude's policy was \$1,800. Because it exceeded the \$1,500 limit, the entire *cash value* was nonexempt, meaning it would be included in the calculation of her mother's total resources.

Individuals entering the nursing home are often told to meet their "spend down" for Medicaid by purchasing a funeral plan. That's not always as easy as it sounds. When purchasing funeral plans, it is important to know the state-specific allowances for services and merchandise so that you or your loved one is not disqualified from receiving Medicaid.



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