

# Regulatory Analysis Form

This space for use by IRRRC

RECEIVED

2007 NOV 29 PM 3:35

INDEPENDENT REGULATORY REVIEW COMMISSION

(1) Agency  
 Department of Public Welfare  
 Office of Income Maintenance  
 Bureau of Policy

(2) I.D. Number (Governor's Office Use)

14-510

IRRC Number: 2655

(3) Short Title

Payment for Burial and Cremation

(4) PA Code Cite

55 Pa. Code Chapters 283, 285 and 1251

(5) Agency Contacts & Telephone Numbers

Primary Contact: Edward Zogby, Director  
 Bureau of Policy

Secondary Contact: Karole Aldridge, Director  
 Division of Welfare Reform Initiatives

(6) Type of Rulemaking (check one)

Proposed Rulemaking  
 Final Order Adopting Regulation  
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

No  
 Yes: By the Attorney General  
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The purpose of this proposed rulemaking is to add a new Chapter 283 (relating to payment for burial and cremation) to replace the existing burial regulations in Chapter 285 (relating to payment for burial). Further, this rulemaking proposes to codify policies that have been in effect since a Notice of Rule Change (NORC) was published at 30 Pa.B. 2957 (June 10, 2000). This proposed rulemaking increases the maximum payment to funeral directors for burial or cremation services to a standard \$750 for all eligible individuals. This proposed rulemaking also increases the maximum level of contributions that may be made by another agency or individual towards burial expenses without reducing the Department payment. This amount is increased from \$180 to \$750. Additionally, this proposed rulemaking eliminates several restrictive requirements for burial, thus allowing families and funeral directors more flexibility and choice in planning and selecting burial goods and services. Finally, this proposed rulemaking amends citations in Chapter 1251 (relating to funeral directors' services) that reference Chapter 285 to conform to the addition of Chapter 283.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

§§201(2) and 403(b) of the Public Welfare Code, P.L. 31, No. 21 (62 P.S. §§201(2) and 403(b)).

#14-510

AUG 23 2007

### Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

There is no mandate for this change.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

This proposed rulemaking is needed because the maximum allowance for burial services in Chapter 285 is inadequate and does not reflect the prevailing costs to provide burial and cremation services. The costs for transportation and preparation of the body, memorial services, gratuities to clergy and cemetery procedures have increased considerably since current regulations were adopted in August 1977. This proposed rulemaking is necessary to update the regulations to provide for a payment that more adequately covers the actual costs of burial and cremation goods and services.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

In general, there would be no public health, safety, environmental or general welfare risks associated with nonregulation. Nonregulation may reduce the general cooperation by funeral service providers to provide timely, efficient and effective burial and cremation services at the Department's current payment level, resulting in a burden on the deceased person's remaining family members or the community.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

This proposed rulemaking will benefit individuals acting on behalf of a deceased individual by allowing more flexibility and choice in planning and selecting burial and cremation goods and services.

This proposed rulemaking benefits funeral directors and may benefit other members of the funeral industry by providing increased payments that more adequately cover the actual costs of burial and cremation goods and services. Increased payments reduce uncompensated costs that are incurred by funeral directors and may reduce costs incurred by other funeral service providers. There are approximately 240 funeral directors enrolled as providers who receive payment from the Department. The Department made approximately 1,424 payments to funeral directors in the past two years.

### Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No one will be adversely affected.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Funeral directors who are enrolled with the Department are required to comply with the proposed rulemaking. There are approximately 240 funeral directors enrolled as providers who receive payment from the Department. The Department made approximately 1,424 payments to funeral directors in the past two years.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

As a result of receiving both oral and written inquiries and comments from funeral service providers, the Department analyzed the need for an increase in the payment for burial and cremation. The analysis showed that the maximum payment for burial in current regulation is inadequate since costs for memorial services, transporting of the body, gratuities for clergy and cemetery requirements have increased considerably since adoption of the current regulation at 7 Pa.B. 2180 (August 5, 1977). Subsequent to this analysis, the Department published a Notice of Rule Change (NORC) at 30 Pa.B. 2957 (June 10, 2000) and proposed rulemaking at 34 Pa.B. 1774 (April 3, 2004). As a result of all comments received, this proposed rulemaking not only increases the maximum payment for burial and cremation and maximum level of contributions that reduce Department payment, but also incorporates requirements that permit flexibility and choice for consumers.

Linda & Lubbering 8-13-07

### Regulatory Analysis Form

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

Not applicable.

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

Not applicable.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The increase in burial payments since FY 2000-2001 resulted in increased State fund costs of \$2.517 million since implementation through Fiscal Year 2006-2007. The estimated cost of \$0.433 million in State funds is anticipated in Fiscal Year 2007-2008.

# 14-510 -  
**AUG 23 2007**

Linda J. Slobbery 8-13-07

**Regulatory Analysis Form**

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
<b>Total Savings</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>COSTS:</b>						
Regulated Community						
Local Government						
State Government	\$433	\$438	\$442	\$445	\$448	\$451
<b>Total Costs</b>	\$433	\$438	\$442	\$445	\$448	\$451
<b>REVENUE LOSSES:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Revenue Losses</b>	\$0	\$0	\$0	\$0	\$0	\$0

(20a) Explain how the cost estimates listed above were derived.

These cost estimates are based on paid claims information which indicates a 76 percent increase in claims in Fiscal Year 2000-2001, the first fiscal year of implementation. This increase was anticipated due to the unusually low fees previously paid for these services, which resulted in many services never being billed to the Department. The estimated costs reflect both the increase in utilization as well as the update to the new maximum fee of \$750 for burial services (from the previous fee of \$350).

	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13
MA-Outpatient	\$433	\$438	\$442	\$445	\$448	\$451

#14-510  
AUG 23 2007

**Regulatory Analysis Form**

(20b) Provide the past three-year expenditure history for programs affected by the regulation.

(Dollar Amounts in Thousands)

Program	FY 2004-2005	FY 2005-2006	FY 2006-2007	FY 2007-2008
MA-Outpatient	\$842,991	\$945,950	\$671,472	\$593,992

#14-510  
**AUG 23 2007**

### Regulatory Analysis Form

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

Reimbursement rates to funeral directors are being increased to reflect the Department's commitment to provide basic needs and services to indigent citizens.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

No nonregulatory alternatives were considered since this proposed rulemaking will codify existing policy in a NORC published at 30 Pa.B. 2957 (June 10, 2000).

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

There are no viable alternative regulatory schemes applicable to the provision of burial and cremation goods and services.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

### Regulatory Analysis Form

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

A comparison with neighboring states indicates that their burial and cremation payments exceed Pennsylvania's payment rate. By increasing the Department's payment rate, Pennsylvania's payment rate is more comparable with rates of other states. This proposed rulemaking will not put Pennsylvania at a competitive disadvantage.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This proposed rulemaking will add 55 Pa.Code Chapter 283 (relating to payment for burial and cremation) to replace Chapter 285 (relating to payment for burial). This proposed rulemaking will also amend citations in Chapter 1251 (relating to funeral directors' services) that reference Chapter 285 to conform to the addition of Chapter 283.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

If warranted, meetings may be held with the Pennsylvania Funeral Director's Association, as well as other interested members of the funeral industry.



### Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

There are no changes to existing reporting, record keeping or other paperwork requirements.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

There are no special provisions to this proposed rulemaking.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

This regulation is effective upon final publication in the Pennsylvania Bulletin for Chapter 1251 (relating to funeral directors' services) and §§283.1, 283.3, 283.4, 283.5, 283.6, 283.7, 283.11, 283.22(1), 283.23, 283.24 and 283.31. The following amendments will be effective retroactive to July 3, 2000, for 283.21 and 283.22(2).

(31) Provide the schedule for continual review of the regulation.

This proposed rulemaking will be subject to internal review through the Department's Quality Control and Corrective Action review process which is monitored by the Federal Department of Health and Human Services.

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

2655

RECEIVED

2007 NOV 29 PM 3:35

INDEPENDENT REGULATORY  
REVIEW DIVISION

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved  
as to form and legality.  
Attorney General

By: Amy M. Elliott  
(Deputy Attorney General)

OCT 26 2007

Date of Approval

π Check if applicable  
Copy not approved.  
Objections attached.

Copy below is hereby certified to be a true and correct  
copy of a document issued, prescribed or promulgated  
by:

DEPARTMENT OF PUBLIC WELFARE  
(Agency)

LEGAL COUNSEL: Jean E. Graybill

DOCUMENT/FISCAL NOTE NO. 14-510

(DPW-OIM-04-03-01)

DATE OF ADOPTION: \_\_\_\_\_

BY: Estelle B. Rickman

TITLE: SECRETARY OF PUBLIC WELFARE  
(Executive Officer, Chairman or Secretary)

Copy below is hereby approved as to  
form and legality. Executive or  
Independent Agencies

By: Andrew C. Clark

AUG 22 2007

Date of Approval

(Deputy General Counsel)  
(Chief Counsel, Independent Agency)  
(Strike inapplicable title)

π Check if applicable. No Attorney  
General approval or objection  
within 30 days after submission.

NOTICE OF PROPOSED RULEMAKING  
DEPARTMENT OF PUBLIC WELFARE  
OFFICE OF INCOME MAINTENANCE

[55 Pa. Code Chapter 283]

Payment for Burial and Cremation

[55 Pa. Code Chapter 285]

Payment for Burial

[55 Pa. Code Chapter 1251]

Funeral Directors' Services

*Statutory Authority*

Notice is hereby given that the Department of Public Welfare (Department), under the authority of the Public Welfare Code, Act of June 13, 1967, P. L. 31 No. 21, 62 P.S. §§ 201(2) and 403(b) intends to adopt the regulation set forth in Annex A.

*Purpose of Regulation*

The purpose of this proposed rulemaking is to add a new Chapter 283 (relating to payment for burial and cremation) to replace the existing burial regulations in Chapter 285 (relating to payment for burial). Further, this rulemaking proposes to codify policies that have been in effect since a Notice of Rule Change (NORC) was published at 30 Pa.B. 2957 (June 10, 2000). This proposed rulemaking increases the maximum payment to funeral directors for burial or cremation services to a standard \$750 for all eligible individuals. This proposed rulemaking also increases the maximum level of contributions that may be made by another agency or individual towards burial expenses without reducing the Department payment. This amount is increased from \$180 to \$750. Additionally, this proposed rulemaking eliminates several restrictive requirements for burial, thus allowing families and funeral directors more flexibility and choice in planning and selecting burial goods and services. Finally, this proposed rulemaking amends citations in Chapter 1251 (relating to funeral directors' services) that reference Chapter 285 to conform to the addition of Chapter 283.

*Background*

Regulations governing maximum payment amounts for burial were adopted at 7 Pa.B. 2180 (August 5, 1977). The maximum allowance for burial services in Chapter 285 is inadequate and does not reflect the prevailing costs to provide burial and cremation services. The costs for transportation and preparation of the body, memorial services, gratuities to clergy and cemetery procedures have increased considerably since the adoption of the current regulations governing maximum payment. This proposed rulemaking is necessary to update the regulations to provide for a payment that more adequately covers the actual costs of burial and cremation goods and services.

The Department published prior proposed rulemaking to amend Chapter 285 at 34 Pa.B. 1774 on April 3, 2004. This prior proposed rulemaking proposed to amend only those sections of Chapter 285 related to the increase in the maximum payment and maximum level of contributions that reduce Department payment. Public comments received primarily from individuals in the funeral industry pointed out that the proposed regulation was still too restrictive and limited consumer choice. Based on these public comments and internal review, the Department concluded that Chapter 285 needed major revision and that a new chapter should be added to replace Chapter 285. This proposed rulemaking codifies not only requirements of the NORC but also incorporates new requirements in response to the public comments.

### *Requirements*

The following is a summary of the specific provisions in the proposed rulemaking:

*Chapter 283 (relating to payment for burial and cremation).*

Cremation was always considered a compensable service under Chapter 285 (relating to payment for burial). To clarify that cremation is a compensable service, the Department proposes to add cremation to the title of the Chapter.

*§283.1 (relating to policy).*

The Department proposes to establish the requirement that only a funeral director who is enrolled with the Department may be eligible for a payment for burial or cremation, or both, and includes a reference to the definition of a funeral director. This policy is consistent with regulation in 55 Pa.Code §1251.1 (relating to policy) under which the Department makes payment to enrolled funeral directors. Restricting payment to enrolled funeral directors is intended to protect the rights and dignity of both the deceased and individuals representing the deceased. The Department understands that other providers, such as cemeteries and crematoriums, may provide services for which payment is required. The Department expects the funeral director and the individual representing the deceased to reach an agreement regarding how the payment should be allocated.

*§§283.3 – 283.7*

The Department describes eligibility requirements for the request for payment, including who may make the request, when a request must be submitted and exceptions to this time frame. A request for payment of burial or cremation, or both, may be made by a family member, friend, fraternal organization representing the deceased or a funeral director on behalf of an individual. A request may also be made by another source if a certificate issued by the Anatomical Board of the Department of Health accompanies the request. A request for payment must be submitted on a form approved by the Department within 30 days of the date of death unless valid, unusual circumstances for the delay are provided. Additionally, this section describes the assistance status of the deceased who may be eligible for burial or cremation payment.

*§283.11 (relating to standards for providing burial or cremation, or both).*

The Department describes the standards to which funeral directors must adhere when providing services for burial or cremation, or both. These standards include abiding by legal requirements, commonly accepted practices of the funeral industry and a written agreement between the funeral director and the individual handling the funeral arrangements. This written agreement will include provisions for payment, including payment for interment if services for interment are selected. This agreement should protect families by assuring that payment will be made for certain items or services specified in the agreement.

The Department did not include specific minimum requirements for goods and services in Chapter 283. This allows greater flexibility and freedom of choice between the funeral director and the individual handling the funeral arrangements.

# 14-510

OCT 10 2007

*§§283.21 and 283.22 (relating to Department payment and resources that do not reduce Department payment).*

The Department describes the maximum payment for burial or cremation, or both, and the maximum value of contributions that may be made by friends, family or other agencies without reducing the Department payment.

*§283.23 (relating to resources from which the Department will seek to collect).*

The Department describes resources that do not reduce the Department payment, but from which the Department will seek recovery.

*§283.24 (relating to resources reducing Department payment).*

The Department describes resources that reduce the Department payment.

*§283.31 (relating to funeral director violations).*

The Department describes that it can take action against a funeral director if a funeral director has or appears to have violated a regulation under 55 Pa.Code Chapters 1101 and 1251 (relating to general provisions; and funeral directors' services). The Department believes that the written agreement included in §283.11 will protect consumers and allow for allocation of resources to ensure the complete burial process,

*Accomplishments and Benefits*

This proposed rulemaking benefits individuals acting on behalf of a deceased individual by allowing more flexibility and choice in planning and selecting burial and cremation goods and services.

This proposed rulemaking also benefits funeral directors and may benefit other members of the funeral industry by providing increased payments that more adequately cover the actual costs of burial and cremation goods and services. Increased payments reduce uncompensated costs that are incurred by funeral directors and may reduce costs incurred by other service providers.

*Fiscal Impact*

From Fiscal Year (FY) 2000-2001 through FY 2006-2007, the Department incurred an average annual increase in expenditures of \$360,000 since the maximum payment was raised from \$350 to \$750 in Fiscal Year (FY) 2000-2001. Of this overall increase, \$140,400 is due to the increased payment amount and \$219,600 is due to an increase in the number of claims paid. The estimated increase in annual expenditures for FY 2007-2008 is \$433,000.

#K-570  
AUG 23 2007



The proposed rulemaking reduces the uncompensated costs for services that are incurred by funeral directors and may reduce uncompensated costs for other individuals in the funeral industry.

*Paperwork Requirements*

This proposed rulemaking does not increase paperwork requirements.

*Effective Date*

This regulation is effective upon final publication in the ***Pennsylvania Bulletin***, with two exceptions. The proposed amendments to § 283.21 (relating to Department payment) and § 283.22(2) (relating to resources that do not reduce Department payment) are effective retroactive to July 3, 2000 to coincide with the effective date of the NORC.

*Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to the Department at the following address: Edward J. Zogby, Director, Bureau of Policy, Room 431 Health and Welfare Building, Harrisburg, Pennsylvania 17120, (717) 787-4081 within 30 calendar days after

the date of publication of this proposed rulemaking in the *Pennsylvania Bulletin*.  
Reference Regulation No. 14-510 when submitting comments.

Persons with a disability who require an auxiliary aid or service may submit comments by using the AT&T Relay Service at 1-800-654-5984 (TDD users) or 1-800-654-5988 (voice users).

*Regulatory Review Act*

Under § 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on  
**NOV 29 2007** the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. In addition to submitting the proposed rulemaking, the Department has provided the IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

Under § 5(g) of the Regulatory Review Act, if the IRRC has any comments, recommendations or objections to any portion of the proposed regulation, it may notify the Department and the Committees within 30 days after the close of the public comment period. Such notification shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review by

the Department, the General Assembly and the Governor, of any comments, recommendations or objections raised, prior to final publication of the regulation.

ANNEX A

TITLE 55. PUBLIC WELFARE

PART II. PUBLIC ASSISTANCE MANUAL

Subpart I. OTHER INCOME MAINTENANCE PROGRAMS

CHAPTER 283. PAYMENT FOR BURIAL AND CREMATION

GENERAL PROVISIONS

§ 283.1. Policy.

(a) The Department will pay for expenses related to burial or cremation, or both.

(b) The Department will pay a funeral director, or anyone acting for him, if the funeral director is the following:

(1) A funeral director as defined in the Funeral Director Law (63 P.S. §479.2(1)).

(2) Enrolled with the Department.

REQUIREMENTS

§ 283.3. Requirements for payment.

The requirements of §§ 283.4 – 283.7 must be met for the Department to pay expenses related to burial or cremation, or both. These requirements apply regardless of where death occurs.

§ 283.4. Assistance status of deceased.

The deceased individual must have been a recipient of Cash Assistance – Temporary Assistance for Needy Families (TANF), General Assistance (GA), State Blind Pension (SBP), Supplemental Security Income (SSI) or State Supplementary Payment (SSP) – at the time of death. This includes:

(1) An individual who was determined eligible for cash assistance, including SBP, regardless of whether the individual had received a cash assistance benefit.

(i) Eligibility for payment begins with the date on which eligibility for cash assistance begins.

(ii) Eligibility for payment extends through the period covered by the last cash assistance benefit for which the individual was eligible.

(2) A former assistance recipient whose assistance had been discontinued due to hospitalization and who died while hospitalized within three months from the date of his admission.

(3) A child born dead to an assistance recipient.

(4) A child of an assistance recipient who died so soon after birth that assistance could not be authorized.

(5) A member of a recipient's family who formerly received assistance with the family, returned to the residence, was planning to apply for assistance and died before assistance could be authorized.

§ 283.5. Source of request for payment.

(a) The Department will accept a request for payment for burial or cremation, or both, if the request is made by one of the following:

(1) A relative.

(2) A friend.

(3) The representative of a fraternal society of which the deceased was a member.

(4) The representative of a charitable or religious organization.

(5) A funeral director acting on behalf of an individual described in paragraphs 1-4 of this subsection.

(b) If the request for payment comes from another source, the request must be accompanied by a certificate issued by the Anatomical Board, Department of Health, declaring the body unfit for anatomical purposes.

§ 283.6. Submission of form for payment.

The individual requesting payment or the funeral director on behalf of the individual requesting payment shall submit the request on a form approved by the Department according to § 283.7 (relating to date of request for payment). This form must be completed by the individual requesting payment and the funeral director.

§ 283.7. Date of request for payment.

This form to request payment must be submitted to the Department within 30 days of the date of death with the following exceptions:

(1) When there are unusual circumstances and the individual requesting payment or the funeral director submits valid reasons for the delay. In this case, the individual requesting payment or the funeral director must submit the form to the Department within 30 days from the date of the request for payment.

(2) When the funeral director is waiting for notification regarding a resource that may reduce the Department payment according to §283.24 (relating to resources reducing Department payment). Under these circumstances, the individual requesting payment or the funeral director shall submit the form to the Department within 15 days from the date the funeral director receives payment from the resource or a notification regarding payment from the resource, whichever is sooner.



## STANDARDS

§ 283.11. Standards for providing burial or cremation, or both.

The funeral director shall provide services for burial or cremation, or both, in accordance with the following:

- (1) Commonly accepted funeral industry practices established under the Funeral Director Law (63 P.S. §§ 479.1 -- 479.20).
- (2) Requirements for professional and vocational standards for funeral directors under 49 Pa.Code Chapter 13 (relating to state board of funeral directors).
- (3) Federal standards required by the Federal Trade Commission as specified at 16 CFR Part 453 (relating to funeral industry practices).
- (4) A written agreement between the funeral director and the individual handling the funeral arrangements for the deceased. The agreement will include provisions for funeral directors to provide payment for other services, including payment for interment, if services for interment are requested.

## PAYMENT

### § 283.21. Department payment.

The Department's total payment for burial or cremation, or both, is \$750 for goods and services and interment charges. The Department will make a total payment not to exceed \$750 for a deceased individual who was eligible and authorized for cash assistance at the time of death.

### § 283.22. Resources that do not reduce Department payment.

Resources that are not considered in determining the Department payment include:

(1) Small contributions, such as articles of clothing, the use of cars to carry the funeral party, newspaper obituary, flowers and religious services.

(2) Contributions in money, goods or services by an agency or individual, including legally responsible relatives, up to a total of \$750.

### § 283.23. Resources from which the Department will seek to collect.

Under the following circumstances, the Department payment is not reduced by the value of the resources described in §283.24 (relating to resources reducing Department payment), but instead the Department will seek recovery if resources:

(1) Are reported to the funeral director after the deadline date as set forth in § 283.7 (relating to date of request for payment), and the funeral director does not collect from these resources.

(2) Become available only after the Department pays for burial or cremation, or both.

§ 283.24. Resources reducing Department payment.

(a) When an individual submits a payment form to the Department, the Department will determine the resources available to meet expenses.

(b) Resources may be in the estate of the deceased, payable on behalf of the deceased to the estate or to another individual, or contributed on behalf of the deceased.

(c) The combined value of the following contributions in money, goods or services by an agency or individual, except as specified in § 283.22 (relating to resources that do not reduce Department payment), reduces the Department payment:

- (1) The contributions and resources made by an agency or individual.
- (2) Burial reserve in the estate of the deceased, and the value of a burial reserve and burial space as set forth in § 177.2 (relating to definitions).
- (3) Cash on hand in the estate of the deceased.
- (4) Other personal property in the estate of the deceased that may be readily converted into cash, and is not needed to meet a living requirement for the survivors.
- (5) Life insurance death benefits payable to legally responsible relatives or individuals or organizations that paid insurance premiums by agreement with the insured that the benefits are used for burial.
- (6) Burial benefits from a lodge or fraternal organization.
- (7) A lump-sum death benefit from the Social Security Administration (SSA) as defined in 20 CFR 401.25 (relating to terms defined) payable to a surviving spouse or to a funeral director.

(i) The individual who assumed responsibility for payment of the funeral expenses may authorize that the lump-sum payment be paid to the funeral director.

(ii) The Department, at the request of the funeral director, may authorize that the lump-sum payment be paid to the funeral director if:

(A) The individual who assumed responsibility for payment of the funeral expenses does not authorize the payment to the funeral director.

(B) The SSA determines that the individual who arranged burial did not assume responsibility.

(iii) The Department will not pay costs for burial or cremation, or both, until definite information about payment of the lump-sum death benefit is provided by the funeral director.

(8) The lump-sum death benefit from railroad retirement payable to a surviving spouse or a funeral director.

(9) Benefits available from county commissioners on behalf of deceased widows of deceased veterans.

(10) Benefits available for burial in a national cemetery.

(11) Workers compensation benefits designated for burial or cremation, or both, if death results from an accident or injuries sustained in connection with the employment of the deceased.

(12) Awards resulting from accidental death not connected with the employment of the deceased. Pending awards do not reduce the Department payment. When an award is pending, the Department will pay for burial or cremation, or both, and seek recovery when the award is made.

(13) Department of Veterans Affairs death benefits.

(14) Death benefits from United Mine Workers of America welfare and retirement or health and retirement funds.

## VIOLETIONS

§ 283.31. Funeral director violations.

If the Department learns that a funeral director has or appears to have violated a regulation, the Department will determine whether further action is needed according to Chapters 1101 and 1251 (relating to general provisions; and funeral directors' services).

Categorically needy recipients who were receiving a money payment at the time of their death as set forth in § [285.3] 283.4 (relating to [requirements] assistance status of deceased) are eligible for funeral directors' services listed in Chapter 1150 (relating to MA Program payment policies) and the MA Program fee schedule hereto subject to the conditions and limitations of this chapter and Chapter [285] 283 (relating to payment for burial and cremation).

\* \* \* \* \*

§ 1251.23. Scope of benefits for State Blind Pension recipients.

State Blind Pension recipients are eligible for funeral directors' services subject to the conditions and limitations of this chapter and Chapter [285] 283 (relating to payment for burial and cremation).

\* \* \* \* \*

#### PROVIDER PARTICIPATION

\* \* \* \* \*

§ 1251.42. Ongoing responsibilities of providers.

§ 1251.81. Provider misutilization.

Providers determined to have billed for services inconsistent with MA Program regulations or to have otherwise violated the standards set forth in the provider agreement, are subject to the sanctions described in Chapter 1101 (relating to general provisions) and § [285.4(e)] 283.31 (relating to [procedures] funeral director violations).



**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

*Please sign all three  
copies and return are  
copy to: Lisa Benedetto  
3rd Fl. West, H+W Bldg.  
Legal - DPW*

I.D. NUMBER: 14-510  
SUBJECT: PAYMENT FOR BURIAL AND CREMATION  
AGENCY: DEPARTMENT OF PUBLIC WELFARE

**TYPE OF REGULATION**

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
  - a.  With Revisions
  - b.  Without Revisions

RECEIVED  
2007 NOV 29 PM 3:35  
INDEPENDENT REGULATORY  
REVIEW COMMISSION

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
11/29/07	<i>mt</i>	← <i>Kaney</i> HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES
11/29/07	<i>FRS</i>	← MAJORITY CHAIRMAN <u>Frank L. Oliver</u>
11/29/07	<i>J. Calum</i>	← <i>Husted</i> SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE
11/29/07	<i>K. Calum</i>	← MAJORITY CHAIRMAN <u>Edwin B. Erickson</u>
11/29/07	<i>Kathy Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION (IRRC)
		ATTORNEY GENERAL (for Final Omitted only)
11/29/07	<i>C. De...</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)