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**INDEPENDENT REGULATORY REVIEW COMMISSION**  
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

February 13, 2008

Honorable Estelle B. Richman, Secretary  
Department of Public Welfare  
333 Health and Welfare Building  
Harrisburg, PA 17120

Re: Regulation #14-510 (IRRC #2655)  
Department of Public Welfare  
Payment for Burial and Cremation

Dear Secretary Richman:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us). If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman  
Executive Director  
wbg  
Enclosure

cc: Honorable Ted B. Erickson, Chairman, Senate Public Health and Welfare Committee  
Honorable Vincent J. Hughes, Minority Chairman, Senate Public Health and Welfare Committee  
Honorable Frank L. Oliver, Majority Chairman, House Health and Human Services Committee  
Honorable George T. Kenney, Jr., Minority Chairman, House Health and Human Services Committee

# Comments of the Independent Regulatory Review Commission

on

## Department of Public Welfare Regulation #14-510 (IRRC #2655)

### Payment for Burial and Cremation

February 13, 2008

We submit for your consideration the following comments on the proposed rulemaking published in the December 15, 2007 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Department of Public Welfare (DPW) to respond to all comments received from us or any other source.

**1. Section 283.6. Submission of form for payment. - Reasonableness; Implementation procedure; Clarity.**

This section and Section 283.7 refer to “a form approved by the Department [DPW]” which an individual must complete and submit to DPW in order to request the payment for burial or cremation. There is no information on the content of this form or how individuals can obtain the form or a copy. For example, is this form available through the DPW website? A description of the form’s content indicating the basic information required by DPW for a payment request and directions on how to obtain the form should be included in the final-form regulation.

**2. Section 283.21. Department payment. - Fiscal impact; Protection of public health, safety and welfare; Reasonableness.**

This section begins with this sentence: “The Department’s [DPW] total payment for burial or cremation, or both, is \$750 for goods and services and interment charges.” This maximum payment rate was increased from \$350 to the current amount by a Notice of Rule Change (NORC) that was published in the *Pennsylvania Bulletin* by DPW on June 10, 2000. In its comments on this proposed regulation, Community Legal Services of Philadelphia (CLS) raised a concern that the payment rate was too low. Citing two sources indicating that the average cost of a funeral was close to \$6,000, CLS urged DPW to increase the payment rate.

Neither the NORC in 2000 nor the documentation with this proposed regulation explained the basis for the payment rate of \$750. DPW should review its payment rate and provide an explanation with its submittal of the final-form regulation. As a part of its review and explanation, DPW should include specific information on the payment rates used by state agencies for cremation or burial in neighboring states.

**3. Section 283.22. Resources that do not reduce Department payment. - Fiscal impact; Reasonableness; Clarity.**

Concerning the term “small contributions” in Section 283.22(1), is there any maximum monetary amount (dollar limit) that DPW will use in determining what constitutes “small contributions” or will this be a “case-by-case” decision? If there is a maximum dollar amount, it should be listed in the final-form regulation.

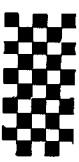
There are two concerns regarding Section 283.22(2). First, it is unclear whether the phrase “up to a total of \$750” applies to Sections 283.24(b) and (c)(2)-(14). Should Section 283.22(2) include a reference to Section 283.24?

Second, what is the impact of the phrase “up to a total of \$750”? Does this mean that a combined total of \$1,500 could be generated using the DPW payment and other sources, and for each dollar over that combined total, the DPW payment will be reduced by an equal amount? This formula should be described in the final-form regulation.

**4. Section 283.24. Resources reducing Department payment. - Fiscal impact; Reasonableness; Clarity.**

In Subsection (b), how will these “resources” be calculated in reducing the DPW payment? As noted above, it is unclear whether Section 283.22(2) applies. Will the DPW payment be reduced dollar-for-dollar or will contributions from other sources be allowed to total \$750 before the DPW payment is reduced? What is the difference between Subsection (b) and Subsection (c)(3)? These questions need to be clarified in the final-form regulation.

In Subsection (c), the phrase “except as specified in § 283.22 (relating to resources that do not reduce Department payment)” is unclear. Specifically, is this a reference to Section 283.22(2)? Is the intent of this phrase that contributions from the sources listed in Section 283.24(c) will not reduce the DPW payment except when they exceed \$750, and therefore, the combined total (DPW payment and other sources) could reach \$1,500 before the DPW payment will be reduced? The process that will be used to reduce the DPW payment needs to be described in detail in the final-form regulation.



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# Facsimile Cover Sheet



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**To:** Ruth D. O'Brien, Senior Assistant Counsel  
Jennifer Whare, Assistant Counsel  
Lisa Benedetto, Secretary to Ms. O'Brien  
Stephanie Schubert

**Agency:** Department of Public Welfare  
**Phone:** 3-2201; 3-2800; 3-2201; 7-4063  
**Fax:** 2-0717  
**Date:** February 13, 2008  
**Pages:** 4

**Comments:** We are submitting the Independent Regulatory Review Commission's comments on the Department of Public Welfare's regulation #14-510 (IRRC # 2655). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

**Accepted by:** Stephanie Gallo **Date:** 2/13/08