

A typical sales pitch for a prepaid funeral might sound like this:

No one wants to leave the burden of decision-making on their children in their time of grief ... prearranging your funeral brings you and your family peace of mind.

Or like this:

Protect yourself against inflation — prearranging your funeral gives you today's prices for your service in the future.

Each technique plays on anxieties near and dear to the American heart — the effect your death will have on your family; rising prices — and each is misleading. "Preneed"* funerals may not cover every item of service you and your family expect, and there's often no guarantee the money you pay today will keep up with inflation to pay the cost of the service you've picked out. Read more below the fold. . . .

***A note on terminology** — the term "preneed," as used by the industry, means a funeral purchased before death. Funeral directors often use this term interchangeably with "prearranging," but prearrangement can be and is frequently done without prepaying.

At least one-third of the complaints we receive have to do with prepaid funerals. Some of the most common are:

— The funeral director told me the casket dad picked out was no longer available and we'd have to buy another (more expensive one)"

— I've had to move in with my children in another state, and the funeral home says my prepaid money can't be transferred to another funeral home"

— My mom now wants to be cremated, but the funeral director said the plan can't be changed"

Add to this the confusion of laws among the states governing preneed funeral contracts. Many

state laws don't offer much protection for your prepaid funeral money. Hawaii, for example, requires funeral directors to put only 70 percent of your prepaid money in trust. What happens if you change your mind, or move out of the area?

Other states, such as Florida, allow funeral directors to charge interest on installment payments toward preneed plans. Why should you pay the funeral home interest for goods and services you haven't used yet? Florida also allows constructive delivery, a legal fiction that allows a funeral seller to consider prepaid merchandise (such as a casket) sold to you as "delivered" and not subject to refund or cancellation.

Only New York and New Jersey get close to truly consumer-friendly preneed laws. New York requires 100 percent of your money to be deposited in trust. The consumer has the right to a full refund, with interest, on a revocable plan, and irrevocable plans are transferable.



Types of prepaid funerals

There are two main types of preneed funerals: insurance-funded plans and trust-funded plans. In a trust-funded funeral, the customer pays in to the trust either in installments or in a lump-sum.

While insurance is usually portable, you may get less back than you paid in if you change your mind and cash out. Insurance plans can have all sorts of restrictions, too. Many will not pay the full benefit — or anything at all — during the first few years you pay premiums.

Trust-funded plans can be *revocable* or *irrevocable*. An irrevocable trust is one that can't be cashed out. Medicaid allows people to set aside certain amounts of money in irrevocable trusts for funeral expenses. This way, that money won't be taken away if you go into long-term care paid for by Medicaid. Revocable trusts, on the other hand, may be cashed out or changed at will, but are subject to seizure by Medicaid if Medicaid is paying for your care and other assets have been depleted.

If you're concerned that you may have to go on Medicaid and you want to shelter money for your funeral, you may want to consider establishing a private irrevocable trust. While you would be unable to change or cash out the trust, you could designate a trusted family member or friend as the beneficiary, rather than giving control of your money to a funeral home. Call your Medicaid department to see if they'll accept such a private irrevocable trust as a legitimate way to shelter funeral assets. And remember, don't buy an irrevocable funeral plan "just in case" you should ever go on Medicaid — wait until you have to. If you never need Medicaid, you will have

closed down all your options and locked your money away for no good reason.

Safer ways to plan ahead

As with any other major purchase, we advise people to shop around and discuss funeral planning thoroughly with family and friends. Making your wishes known to them — and listening to what they might need — is probably the most important task in planning your funeral arrangements.

Funeral Consumers Alliance has [affiliates around the country](#) that can provide you with price information from various funeral businesses. We also have a wealth of literature that can help you navigate the often complicated process funeral planning.

As for making sure money is available for your funeral, one of the best vehicles we know of is called a Totten Trust, or pay-on-death account. This is a trust fund you set up at a bank. You choose the beneficiary (we don't recommend naming the funeral director) and deposit any amount of money you wish.

When you die, the money is immediately released to the beneficiary rather than being tied up in probate. Totten trusts remain in your name, they are portable, and the interest accrues in your account.

