

## **Benton County Indigent Burial Policy-Effective January 1, 2017**

### **I. Statutory Reference and Statement of Policy**

State law requires counties to pay the “necessary expenses” of a funeral and final disposition when the deceased person or spouse has insufficient resources to pay those expenses. Benton County will provide for cremations or burials of indigent persons who die in Benton County when such persons are the financial responsibility of Benton County in accordance with Minn. Stat. §256.935, §261.035 and §261.04. As a county-funded service, only the basic expenses associated with the cremation or burial will be paid for by Benton County. As allowed by law, the County will attempt to recover its costs from the estate of the deceased.

Benton County will utilize cremation when the preferences of the deceased, the deceased’s spouse or next of kin are not known. **Cremation will be the first method of disposition unless it is determined that cremation is not in accordance with the decedent's personal preferences or the known practices of the decedent's faith tradition or the personal preferences of the decedent's spouse or the decedent's next of kin, the county board shall provide for a burial and funeral.**

The relevant statutory sections have been provided below.

#### **256.935 FUNERAL EXPENSES, PAYMENT BY COUNTY AGENCY.**

**Subdivision 1.** Cremation, burial, and funeral expenses. On the death of any person receiving public assistance through MFIP, the county agency shall attempt to contact the decedent's spouse or next of kin. If the agency is not able to contact a spouse or next of kin and the personal preferences of the decedent or the practices of the decedent's faith tradition are not known, the agency shall pay for cremation of the person's remains and the burial or interment if the spouse or next of kin does not want to take possession of the ashes. If the county agency contacts the decedent's spouse or next of kin and it is determined that cremation is not in accordance with the decedent's personal preferences or the practices of the decedent's faith tradition or the personal preferences of the decedent's spouse or the decedent's next of kin, the county agency shall pay an amount for funeral expenses including the transportation of the body into or out of the community in which the deceased resided not exceeding the amount paid for comparable services under section 261.035 plus actual cemetery charges. No cremation, burial, or funeral expenses shall be paid if the estate of the deceased is sufficient to pay such expenses or if the spouse, who was legally responsible for the support of the deceased while living, is able to pay such expenses. Freedom of choice in the selection of a funeral director shall be granted to persons lawfully authorized to make arrangements for the cremation or burial of any such deceased recipient. In determining the sufficiency of such estate, due regard shall be had for the nature and marketability of the assets of the estate. The county agency may grant cremation, burial, or funeral expenses where the sale would cause undue loss to

the estate. Any amount paid for cremation, burial, or funeral expenses shall be a prior claim against the estate, as provided in section 524.3-805, and any amount recovered shall be reimbursed to the agency which paid the expenses. The commissioner shall specify requirements for reports, including fiscal reports, according to section 256.01 subdivision 2, paragraph (q). The state share shall pay the entire amount of county agency expenditures. Benefits shall be issued to recipients by the state or county subject to provisions of section 256.017.

#### **Minnesota Statutes §261.035 FUNERALS AT EXPENSE OF COUNTY**

When a person dies in any county without apparent means to provide for that person's funeral or final disposition, the county board shall first investigate to determine whether that person had contracted for any prepaid funeral arrangements. If prepaid arrangements have been made, the county shall authorize arrangements to be implemented in accord with the instructions of the deceased. If it is determined that the person did not leave sufficient means to defray the necessary expenses of a funeral and final disposition, nor any spouse of sufficient ability to procure the burial, the county board shall pay for cremation of the person's remains and the person's burial or interment if the spouse or next of kin does not want to take possession of the ashes. If it is determined that cremation is not in accordance with the decedent's personal preferences or the known practices of the decedent's faith tradition or the personal preferences of the decedent's spouse or the decedent's next of kin, the county board shall provide for a burial and funeral. Any burial, funeral, and final disposition provided at the expense of the county shall be in accordance with personal preferences or known practices of the decedent's faith tradition or the personal preferences of the decedent's spouse or the decedent's next of kin. If neither the wishes of the decedent, nor the practices of the decedent's faith tradition are known, and the county has no information about the existence of or location of any next of kin, the county may provide for cremation of the person's remains and burial or interment.

#### **261.04 LIABILITY OF ESTATE. §Subdivision 1.**Support, maintenance, care, or burial.

When any person is furnished or provided with support, maintenance, care, including care at the University of Minnesota hospitals, or burial as a poor person the county so furnishing such aid shall have a claim therefor against the person or the person's estate for the reasonable value thereof, which claim may be presented and prosecuted by such county at its option upon discovery of any property belonging to the poor person or to the estate. **Subd. 2.**Claims filed in district court. Such claims, when against the estate of a deceased person, shall be filed in district court and acted upon as in the case of other claims.

## **II. Responsibilities of Applicant(s) for Indigent Cremation or Burial**

To be eligible for a county-funded funeral and cremation or burial, the applicant must:

1. Contact the Benton County Human Services Department/Financial Unit (320.968.5087) to obtain an application form (most funeral homes will have application forms available; an application form can be downloaded from the County's website <http://www.co.benton.mn.us/HServices/financial.htm>);
2. Submit a completed and signed application for County burial services to the Benton County Human Services Department/Financial Unit;
3. Submit an itemized statement of funeral costs, signed and dated by the applicant;
4. Provide full disclosure and verification (documentation) of all assets of the deceased and spouse of the deceased (or parents of a deceased minor), including cash on hand, savings or checking accounts, investments, real estate, automobiles, life insurance policies, and prepaid funeral arrangements;
5. Apply for any death benefits available and remit such benefits to Benton County as reimbursement for county-funded funeral and burial costs.

## **III. Limitations and Conditions**

Benton County will pay for the cost of funeral and cremation or burial expenses, subject to the following limitations and conditions:

1. The deceased and/or the deceased's spouse have insufficient assets to cover funeral and cremation or burial expenses;
2. The deceased person is the financial responsibility of Benton County;
3. Benton County Human Services has approved the payment of funeral costs before arrangements have been finalized with the funeral home;
4. County approval must be in writing for arrangements that fit within the guidelines of Benton County's policy and must be signed by the Human Services Director or authorized representative;
5. Benton County will utilize cremation when the preferences of the deceased, the deceased's spouse or next of kin are known. It is required the spouse or next of kin be agreeable to allow for cremation.

The total cost of the cremation or burial \$2000;

### **Immediate Cremation includes:**

Removal from place of death, private identification, transport to crematory, minimum cremation container, minimum urn, cremation, file death certificate.

### **Immediate Burial includes:**

Removal from place of death, private identification, transport to cemetery, minimum casket, minimum grave liner, file death certificate.

The County's contribution shall not be available for services, flowers, a more costly casket, memorial products, etc.

6. County funds may not be used for other items or services (such as flowers, memorial paper products, a minister, or perpetual care);
7. Additional contributions can be made from family and/or friends that are not legally responsible to cover burial service, flowers, memorial paper products, minister or perpetual care.

#### **IV. Claims Against Estate**

As allowed under Minnesota Statutes §261.04, Benton County is permitted to file a claim against the estate of a deceased person who received a County-funded burial in order to recover County costs. Collections efforts will be made by Benton County through Human Services collections staff.