

PREPAID FUNERAL AND CEMETERY SALES ACT (EXCERPT)
Act 255 of 1986

328.229 Irrevocable prepaid contract approved by family independence agency or department of community health; rules.

Sec. 19.

(1) A prepaid contract may be made with an applicant for or recipient of assistance under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, or a patient or a legal guardian of a patient in a community health care facility under the jurisdiction of the department of community health. If the family independence agency or department of community health determines that the contract is a fully paid guaranteed price contract, and that the proceeds of the contract and the amount of any death benefit from an insurance policy or annuity contract that has been assigned pursuant to section 2080(6) of the insurance code of 1956, 1956 PA 218, MCL 500.2080, as payment for merchandise or funeral or cemetery services for the contract beneficiary are not more than that amount allowed under section 2080(6)(g) of the insurance code of 1956, 1956 PA 218, MCL 500.2080, plus \$2,000.00, exclusive of income, and that the state will not be liable for the merchandise or funeral or cemetery services, excluding an outside receptacle when required by the chosen cemetery, of the applicant for or recipient of assistance or patient allowable under contracts under this act, the prepaid contract shall be made irrevocable at the request of the applicant for or recipient of assistance, or the patient or a legal guardian of a patient. Nothing in this section shall be construed as increasing the amount of excludable burial assets for family independence agency or medicaid program eligibility above that allowed under existing family independence agency standards, including any increases in those standards. The family independence agency or department of community health shall advise the applicant for or recipient of assistance, or the patient or a legal guardian of a patient that additional merchandise or funeral or cemetery services subject to contract under this act will not be paid by the family independence agency or department of community health but shall not specify or require approval of particular merchandise or funeral or cemetery services selected by the applicant for or recipient of assistance, or patient or a legal guardian of a patient.

(2) A prepaid contract approved by the family independence agency or department of community health shall not be revoked or canceled by the contract seller, contract provider, contract buyer, or their successors, or the estate of the contract beneficiary either before or after the death of the contract beneficiary. This subsection does not prevent those legally entitled to make arrangements for a contract beneficiary from reallocating the amount paid under the prepaid contract to different funeral or cemetery services and merchandise. A contract seller or provider shall assign an irrevocable prepaid contract to another provider upon the written request of the contract beneficiary, his or her successor, or those legally entitled to make arrangements for the contract beneficiary so long as the written request is received before a provider's obligations have been performed. An irrevocable contract shall not be considered in determining the eligibility of an applicant or recipient for assistance given under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b. An irrevocable prepaid contract made under this section is not subject to the cancellation provision of section 13 or to the provisions of section 15(6).

(3) Notwithstanding any other provisions of this act, funds paid in connection with an irrevocable prepaid contract may, at the option of the provider, be held and deposited in the manner prescribed for a nonguaranteed price contract.

(4) The family independence agency and department of community health may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the uniform administration of this section.

History: 1986, Act 255, Eff. July 1, 1987 ;-- Am. 2002, Act 325, Imd. Eff. May 23, 2002 ;-- Am. 2004, Act 21, Eff. Jan. 1, 2005

Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.