

Navigating the Unavoidable: A Comprehensive Guide to Preparing for Your Final Farewell

By Paul Chmielewski

It is becoming common for people to preplan for their own funeral. The reasons for planning ahead for one's end of life vary but often include a desire to alleviate stress for family members who will need to make big financial decisions while in the midst of enormous grief, help prevent family conflict, ensure the things most important to the decedent are carried out, and save money. The following two strategies are commonly employed to ensure people's funeral wishes are known and sufficient funeral funds are available: (1) planning in advance and (2) putting money aside in advance. These strategies will be discussed below but, before considering the options, it is important to understand a consumer's rights when purchasing preneed funeral services.

The Funeral Rule

When purchasing funeral services for loved ones, people are often in an emotional state and do not understand their rights. The allegations in a pending case filed on April 22, 2022, show how this can potentially result in problems. In the pending case, the Federal Trade Commission (FTC) asserted that a company falsely held themselves out as a low-cost cremation provider in local markets. In reality, the company did not own or operate any funeral homes. Instead, it marketed to consumers and then contracted with third-party funeral vendors to provide the cremation services. On several occasions, the cremation services were allegedly done by funeral homes in distant locations requiring families to travel long distances to view their deceased loved ones prior to cremation and to obtain their remains. Furthermore, the prices quoted by the company did not disclose hidden fees, which the FTC claimed resulted in charges higher than originally quoted. If a family did not agree to pay the higher price, the company allegedly refused to release the decedent's remains until payment was made.

To help consumers avoid the type of situation described above, the FTC published "The Funeral Rule" ("Rule"), which identifies rights available to consumers. The Rule makes it clear that consumers are able to choose only those goods and services they want or need. In addition, consumers only pay for the goods and services they select. The Rule applies whether funeral plans are being chosen for a recently deceased loved one or when funeral planning is done in advance of death. The Rule applies to funeral providers but does not apply to third-party sellers, such as casket and monument dealers, or to cemeteries that lack an on-site funeral home. A comprehensive list of rights granted to consumers by the Rule can be found [here](#).

Calculating the Cost of a Funeral

The Rule is helpful in determining a consumer's rights, but it leads to the question of how does someone determine what services are needed and what they will cost? The best way to determine funeral costs is to "shop" funeral homes. The Rule requires every funeral provider to provide an itemized statement of the total cost of the funeral goods and services selected. If the funeral provider does not know the cost of cash advance items at the time, they are required to provide a written "good faith estimate." The statement also must disclose any requirements that specific funeral goods or services must be purchased.

Although itemized statements must be provided, there is no requirement that they be in any particular format. The result is that funeral providers use a variety of formats, which can be confusing to consumers when trying to compare cost statements. This prompted the FTC to publish a Funeral Pricing Checklist. The Checklist can be found at https://consumer.ftc.gov/articles/funeral-costs-pricing-checklist#Funeral_Pricing. The FTC encourages consumers to make copies of the checklist and use one checklist for each funeral provider with whom they speak to accurately compare cost estimates.

Preplanning for Funerals

As mentioned earlier, people are increasingly opting to be proactive to ensure they have a voice in their own funeral planning and to ensure funds are available to pay for their funeral. These options are discussed below.

PLANNING IN ADVANCE

Planning in advance happens in two ways:

1. Providing guidance regarding your end-of-life desires through estate planning documents¹ or
2. Purchasing a preneed funeral contract

When providing guidance to loved ones via estate planning documents or otherwise, people can share their thoughts about the type of funeral service they want, which casket or urn should be selected, and the desired location of their final resting place. Although this information is helpful, it does not necessarily dictate that the decedent's stated desires will be followed, nor does it guarantee specific burial plots will be available. Additionally, the decedent's family still needs to carry out the decedent's stated desires during an emotionally charged time. Finally, there is no guarantee that sufficient funds will be available to fulfill the decedent's wishes.

Preneed funeral plans are a response to the unknown cost and other uncertainties of simply providing guidance regarding funeral wishes. With a preneed funeral contract, a person signs a contract with a specific funeral home. The contract details decisions regarding their funeral plans, and the individual pays for those services before they pass away. In addition to funeral details being decided upon, preneed funeral contracts can reserve specific burial sites. Specific caskets or urns can also be chosen. This arrangement eliminates uncertainty about whether funds will be available when needed and eliminates the burden of family members having to decide how the decedent would have wanted things handled or the burden of carrying out the decedent's stated wishes. Instead, the funeral home already has directions from the decedent, has been paid by the decedent and implements the decedent's wishes.

Because preneed funeral contracts involve giving money upfront to a funeral home for future services, there is a concern about whether the requested products and services will actually be available when needed. Most states require funeral providers to deposit advance funeral payments into a trust fund to ensure that the funds are available when needed by consumers. It is always a good idea for a consumer to ask a funeral director to identify the financial institution where the preneed funeral funds will be deposited, how the preneed funds will be invested, and what percentage of future preneed funeral costs are currently covered by the trust fund. The FTC has also published a list of questions that consumers can ask before purchasing a preneed funeral contract:

- What exactly is included in the cost?
- Does the cost cover only merchandise, like a casket or urn, or does it include other funeral services?
- What happens to the money you have paid? (State requirements differ in how the funds must be handled.)
- What happens to any interest income earned on the invested funds?
- Are you protected if the funeral home goes out of business?
- Can you cancel the contract and get a full refund?
- What happens if you move or die while away from home and can't use the prepaid services?

PUTTING MONEY ASIDE IN ADVANCE

Rather than signing a preneed funeral contract, some people want to ensure funds are available for their funeral but do not want to commit to a specific funeral home or specific products. The most common product utilized for this scenario is final expense insurance. Final expense insurance is a type of insurance policy specifically designed to cover end-of-life expenses. This can include funeral expenses, medical bills and other related costs. Final expense insurance policies are typically sold as whole life policies, meaning that they remain in effect for the entire lifetime of the insured individual.

One advantage of final expense insurance is that it can provide financial security to loved ones in the event of an unexpected death. The insurance payout can help to cover the cost of the funeral, medical bills and other related expenses. Final expense insurance policies are typically less expensive than traditional life insurance policies, making them a more affordable option for individuals who are primarily concerned with covering end-of-life expenses.

Another advantage of final expense insurance is that it is typically easier to obtain than traditional life insurance. Final expense insurance policies do not require a medical exam, making them accessible to individuals who may not be eligible for traditional life insurance due to preexisting health conditions.

A major disadvantage to final expense insurance is that it does not lock in costs prior to death. If costs increase, the insurance payout amount may not be enough to cover all end-of-life expenses. The payout is also dependent upon the creditworthiness of the insurance carrier, so it is prudent to make sure the carrier selected is in good financial condition.

Medicaid

Some families engage in Medicaid planning to preserve the assets of an individual whose health is declining. Medicaid planning often involves gifting away significant assets to family while an individual is alive to avoid their depletion by health care costs. If an individual has preneed funeral plans or final expense insurance, it could affect an individual's ability to qualify for Medicaid. If Medicaid planning is being considered, it is important to work with qualified advisors to understand how these plans may impact Medicaid eligibility.

Conclusion

Funeral planning is an issue that all families will eventually face. If someone wants a voice in their own funeral, they should consider preplanning. Both preneed funeral planning and final expense insurance are options for individuals who want to preplan for their funeral and end-of-life expenses. Preneed contracts can provide greater control over funeral arrangements and financial security for loved ones, while final expense insurance can provide more affordable and accessible funeral coverage. The decision between preneed funeral planning and final expense insurance will depend on the individual's personal preferences, financial situation and overall goals for end-of-life planning.

¹ This can happen via a will, advance directive or some other written or oral guidance. A will is not preferred because it is often not looked at until after the funeral is over.

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