

Proposed Rule – Insurance Funded Preneed Contracts

Statutory Authority: 436.405.1(4), 436.450, RSMo

1. A preneed contract shall be presumed to be formed any time a seller, provider, establishment, funeral director, embalmer, or preneed agent is named as beneficiary or assignee of a life insurance policy before the time of need if:
 - a. The person making the assignment or beneficiary designation does so with the intent to pay in advance for the goods and services required for final disposition of the insured's body; and
 - b. The named beneficiary or assignee acknowledges the assignment or beneficiary designation and agrees to use the funds from the insurance proceeds to provide the goods and services for final disposition of the insured's body at the time of need. This acknowledgment and agreement may be found if the beneficiary or assignee holds evidence of the beneficiary designation or assignment or by any other evidence of which the Board becomes aware.
2. If a preneed contract is formed by beneficiary designation or assignment of a life insurance policy, there must be a written contract between a licensed seller and the purchaser and all other statutory requirements for a preneed contract found in Chapters 333 and 436, RSMo, must be met. It shall be deemed the unlicensed practice of seller if an establishment, provider, funeral director, embalmer or preneed agent forms a preneed contract with a consumer unless that licensee also holds a current seller's license.
3. A preneed contract funded by insurance assignment or beneficiary designation shall be written and provided to the consumer for signature as soon as is practical after the assignment or beneficiary designation, but in no event later than 30 days from the date the beneficiary or assignee becomes aware of the assignment or beneficiary designation.
4. All statutory requirements for a preneed contract must be met, including a written contract between a licensed seller and the purchaser, when an insurance assignment or beneficiary designation is made to assist the consumer in qualifying for public assistance benefits commonly known as "spenddown."
5. The date the insurance policy is purchased shall not be the only factor considered to determine whether a preneed contract is formed by assignment or beneficiary designation.

6. An insurance funded preneed contract may be formed without regard to whether the insurance policy is purchased at the location of a preneed seller or if the insurance policy is purchased from another location.
7. The presumption of the formation of a preneed contract may be rebutted upon a showing by the licensee, to the Board's satisfaction, that the assignment or beneficiary designation was not done with the intent to form a preneed contract. The presumption of the formation of a preneed contract shall not apply, absent other evidence to the contrary, to any situation where there is a family relationship between the insured and the beneficiary or assignee.
8. An insurance policy that names as beneficiary or assignee "the funeral establishment that provides for my final disposition" or similar beneficiary designation that does not name a specific funeral establishment or seller as beneficiary shall not be deemed as providing funding for a preneed contract unless there is evidence that there is also an agreement between the purchaser and a seller, provider, funeral establishment, funeral director, embalmer or preneed agent that a specified and named funeral establishment will receive the insurance proceeds and agrees to provide the goods and services for final disposition of the insured's body at the time of need.
9. An insurance funded preneed contract may contain a provision that allows the preneed contract to be cancelled by the seller if the purchaser removes the seller as beneficiary of the insurance policy or if the purchaser cancels the assignment of the insurance policy to the seller prior to the time of need.