461-145-0040 **Effective 9-21-23 – Minor Correction**
Burial Arrangements and Burial Funds

(1) The following definitions apply to this rule:

(a) "Burial arrangement" means an agreement with an entity --- such as a funeral agreement (which means an arrangement made with a licensed funeral provider), burial insurance, or a burial trust designating a funeral director as the beneficiary --- that establishes provisions for payment of an individual's burial costs. A "burial arrangement" does not include a burial space, which is covered in OAR 461-145-0050, or a *burial fund* (see subsection (b) of this section).

(b) "Burial fund" means an identifiable fund set aside for an individual's burial costs. A "burial fund" does not include a burial space, which is covered in OAR 461-145-0050, or a *burial arrangement* (see subsection (a) of this section).

(c) In all programs except OSIP, OSIPM, and QMB-DW, burial insurance is considered a form of life insurance and treated in accordance with OAR 461-145-0320.

(2) A *burial arrangement* is treated as follows:

(a) In the REF, REFM, SNAP, and TANF programs, the *equity value* (see OAR 461-001-0000) of one prepaid *burial arrangement* for each member of the *filing group* (see OAR 461-110-0310) is excluded.

(b) For individuals eligible for OSIP and OSIPM under 461-125-0330(2), 461-125-0370(1)(b), and 461-135-0771, up to $1,000 in combined *equity value* of each *burial arrangement* with a licensed funeral director (plus accrued interest) and life insurance policies are excluded. The amount of combined cash and *equity value* of all life insurance and burial arrangements that exceeds $1,000 is counted as a resource.

(c) In the OSIP, OSIPM, and QMB-DW programs:

(A) The amount in an irrevocable burial trust or any other irrevocable arrangement to cover burial costs is excluded.

(B) Burial insurance that does not generate a cash surrender value or generates cash surrender value to which the owner does not have access, is considered an irrevocable arrangement and excluded.

(C) Burial insurance that generates a cash surrender value to which the owner has access is considered life insurance and is treated in accordance with OAR 461-145-0320 and, as applicable, subsection (b) of this section.

(d) Except as provided in subsections (b) and (c) of this section, in all programs not listed in subsection (a) of this section, a *burial arrangement* is treated in the manner as the program treats a *burial fund* under section (3) of this rule.

(3) A *burial fund* is treated as follows:

(a) In the OSIP, OSIPM, and QMB-DW programs:

(A) A *burial fund* may be established only from financial means such as cash, burial contracts, bank accounts, stocks, bonds, or life insurance policies.

(B) A *burial fund* is counted as a resource if it is commingled with assets unrelated to a burial. The amount set aside for burial must be in a separate account to be excluded from resource consideration.

(C) A *burial fund* may be established if the *countable* (see OAR 461-001-0000) resources of the individual exceed allowable limits. A *burial fund* is excluded from the resource calculation to the extent allowed in paragraph (D) of this subsection.

(D) The following calculation determines the exclusion for a *burial fund*:

(i) Up to $1,500 of a *burial fund* may be excluded from resources for each of the following:

(I) The individual.

(II) The individual's spouse.

(ii) The amount in subparagraph (i) of this paragraph is reduced by the total of the following amounts:

(I) The face value of life insurance policies owned by the individual that have already been excluded from resources. This does not include term life insurance policies that do not generate a cash surrender value.

(II) The amount in an irrevocable burial trust or any other irrevocable arrangement designated to cover burial costs, including the face value of burial insurance considered an irrevocable arrangement (see subsection (2)(c)(B) of this rule). Burial costs do not include burial spaces or merchandise (see OAR 461-145-0050).

(E) All interest earned on an excluded *burial fund* or increases in the value of an excluded *burial arrangement* if left in the fund is excluded from income.

(b) In the QMB-BAS, QMB-SMB, and QMB-SMF programs, a *burial fund* is excluded as a resource.

(c) In all programs not listed in subsections (a) or (b) of this section, a *burial fund* is counted as a resource.

(4) There is no overpayment for the time period during which the *burial arrangement* or *burial fund* existed if the individual ---

(a) Cancels an excluded *burial arrangement*; or

(b) Uses an excluded *burial fund* for any purpose other than burial costs.

(5) If an asset originally used as a *burial arrangement* or *burial fund* is converted to other uses, the asset is treated under the other applicable rules.

Statutory/Other Authority: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 413.085, 414.619
Statutes/Other Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 413.085, 414.117, 414.619

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