

# Funeral Prepay Pitfalls

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FCA Western Mass, 2004 Annual Meeting

- Planning vs. Prepaying
- Medicaid Regulations
- Massachusetts Funeral Regulations
- Revocable vs. Irrevocable Contracts
- Cost Protection Options
- Funding Methods
- Recommendations

# Planning vs. Prepaying

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- Document your funeral preferences, or let your survivors know it is up to them.
- Setting aside money to pay for your funeral.
- Prepaying a Funeral Establishment.

## 130 CMR DIVISION OF MEDICAL ASSISTANCE

### 520.000: MASSHEALTH; FINANCIAL ELIGIBILITY

#### 520.008: Noncountable Assets

#### (F) Funeral or Burial Arrangements.

(1) The following funeral or burial arrangements for the applicant, member, or spouse are considered noncountable assets:

(a) any burial space, including any burial space for any immediate family member;

(b) one of the following:

1. a separately identifiable amount not to exceed \$1,500 expressly reserved for funeral and burial expenses; or

2. life-insurance policies designated exclusively for funeral and burial expenses with a total face value not to exceed \$1,500;

(c) the cash-surrender value of burial insurance; and

(d) prepaid irrevocable burial contracts, or irrevocable trust accounts designated for funeral and burial expenses.

(3) The applicant, member, or spouse has the right to establish a burial arrangement or change the designation of his or her funds to a burial arrangement described in 130 CMR 520.0008(F). If such arrangement is made within 60 days after the date that the applicant or member was notified of his or her right to do so, then the Division considers the arrangement to have been in existence on the first day of the third month before the application.

# Regulation in Massachusetts

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- Governed by regulations, *not* statute laws.
- Regulations from Board of Registration in Embalming and Funeral Directing.
- Penalty for violation is revocation or suspension of registration.
- Regulations issued in 1983, 1992, and 2004
- 1992 and 2004 regulations available on internet – Google “239 CMR”

# Revocable vs. Irrevocable

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- Irrevocable means you can't get the money back. But you might later need that money. You can always transfer to another funeral establishment.
- You can change contract to Irrevocable *at any time*.
- New York State statute law requires all contracts be revocable *unless* Medicaid or other government program requires irrevocable. Massachusetts should do the same.

# Cost Protection

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- Goods and Services from Funeral Home
- Non-Funeral Establishment charges, also known as Cash Advance Items.

# Funding Methods

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- Trust with Funeral Home as Trustee is no longer allowed.
- Trust at Bank or Trust Company.
- Insurance (not necessarily purchased from the funeral home).

# Trust

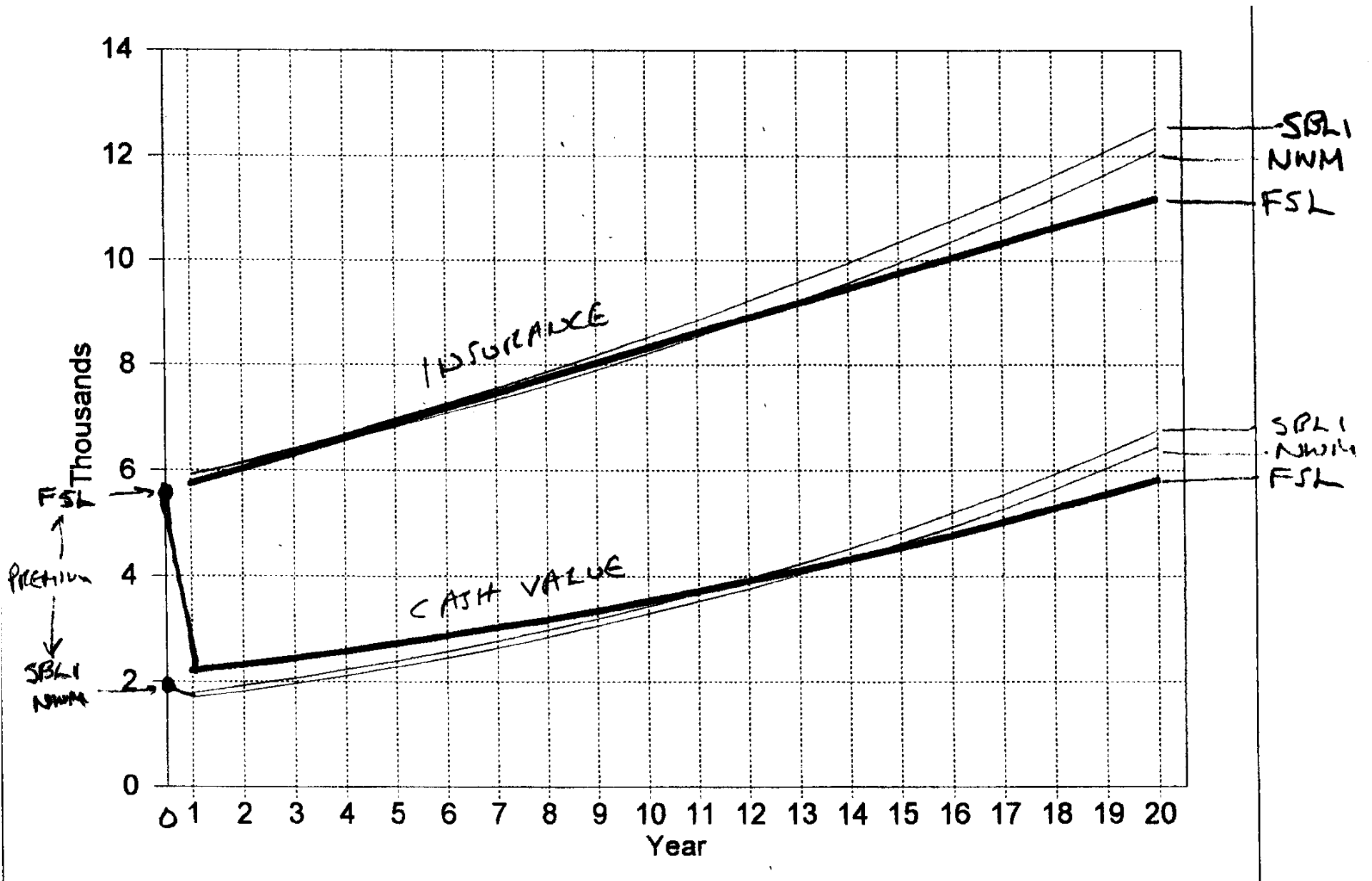
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- A third party holds the money and invests it.
- Funeral trusts are not all the same.
  - ▶ Separate Trust
  - ▶ Common or Commingled Trust
- Who chooses the investments?
  - ▶ Trustee
  - ▶ Funeral Home
  - ▶ Investment Advisor/Administrator
- Trust Agreements are *not reviewed or approved by any agency.*

# Insurance

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- Sold by Funeral Establishment
  - ▶ “A high-priced, unnecessary arrangement” according to *Insurance Forum*.
  - ▶ Single-pay or limited-pay *group* life insurance.
  - ▶ Premium almost equals death benefit, so it is mostly an investment, not insurance.
  - ▶ Commission is much larger than for insurance sold by a regular insurance agent.
  - ▶ Group life insurance is exempt from almost all regulation, since master policy is issued to a group assumed to be acting in the insured’s best interest.
- Conventional Policy can be a much better deal, if you qualify.



Actual Family Service Life policy compared - 45 yr old female  
 Quotes from SBLI and Northwestern Mutual Life

# Recommendations

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- Plan but don't prepay unless you have to when you go on Medicaid or SSI.
- If you do prepay, look carefully at the funding method to judge investment risk.
- If you have existing life insurance policy you can perhaps convert it to a paid-up policy and assign it to fund a prepaid contract.