

CHAPTER 73
INDIGENT BURIAL ASSISTANCE POLICY

73.001 General Information

(a) Authority. Travis County is authorized under TEXAS HEALTH AND SAFETY CODE, Section 694.002, TEXAS LOCAL GOVERNMENT CODE, Section 81.027, and other applicable statutes, to provide for burials of indigent persons in Travis County and to assist the Next of Kin of deceased individuals in obtaining burial where the Decedent and/or Next of Kin are unable to afford burial and meet the requirements of applicable Travis County policies.

(b) Provision of Service. Indigent burials may be provided to eligible Travis County residents or those who died in Travis County, and assistance is provided to families who lack the Income or resources to afford any type of funeral expenses and who meet applicable eligibility requirements under this Policy. All indigent burial requests must have written approval by designated County staff prior to funeral service.

(c) Statutory Guidelines. County will provide all services in accordance with all applicable federal, state and local laws, rules and regulations.

73.002 Program Administration

(a) Purpose. The purpose of this Policy is to establish standards for administration of the Indigent Burial Program ("Program") including the following:

1. Criteria. Establishing the general and specific criteria for determining eligibility.
2. Definitions. Setting forth applicable definitions.
3. Application Process. Setting forth the general application process.
4. Appeals Process. Describing the general appeals process.

(b) Definitions. In this Policy, the following terms will have the meaning set forth herein:

1. "Applicant" means an individual applying for assistance under this Policy.
2. "Case Worker" means a qualified Department representative who assumes the overall responsibility of organizing and ensuring the receipt of needed services for a qualified Participant.
3. "Commissioner's Court" means the Travis County Commissioners Court.
4. "Common Law Marriage" means a union recognized as a legal marriage under the laws of Texas which meets certain conditions, including the following:
 - a. both parties are free to marry;
 - b. the parties live together; and
 - c. the parties hold out to the public that they are husband and wife.
5. "Date of Payment Approval" means the date the caseworker has obtained all necessary information/documents required to approve services and initiate the payment process related to receipt of services under this Policy.

6. "Decedent" means the individual for whom burial services are requested/provided under this Policy.

7. "Department" - The Travis County Health, Human Services and Veterans Services Department.

8. "Emancipated Minor" means a person under 18 years of age who has been legally declared as an emancipated minor by the court; or a person under 18 years of age who is legally married, with marriage including a Common Law (or informal) marriage.

9. "Executive Manager" means the Executive Manager of the Department, or his/her designee.

10. "Fiscal Year" means the Travis County fiscal year which begins October 1 of each year and ends September 30 of the next following year.

11. "Funeral Home" means a funeral home which has duly executed a contract with Travis County to provide funeral services pursuant to this Policy.

12. "Household" means an Applicant and those individuals sharing the Applicant's housing unit as defined in this Policy.

13. "Income" means the total monetary receipts from all sources, including tips, before deductions from all sources as set forth in this Policy.

14. "Next of Kin" means the legal next of kin as defined in TEXAS HEALTH AND SAFETY CODE ANN., Section 711.002, "Disposition of Remains, Duty to Inter." The Applicant under this Policy must provide proof that Applicant is the Next of kin.

15. "Participant" means a person approved by the Department as meeting applicable criteria guidelines to receive services under this Policy.

16. "Residency" means an individual must be working, paying rent/mortgage, applying or receiving food stamps prior to death. Determination of Residency will be evaluated on a case-by-case basis as set forth in this Policy.

17. "Resource/Assets" means the earnings of the Household the total of which must be less than the allowable limit as set forth in this Policy. Countable Resource/Assets for the Indigent Burial Program will be determined by Department policy.

18. "Third Party" means a person who has no personal gain and no personal relationship to the Applicant or any member of the Applicant's Household as a relative, friend or neighbor. Examples of third party are: employers, school nurses, social service agency representatives, lawyers/paralegal, etc.

19. "Thirty-Day Period" means the previous thirty calendar days from and including the date of application.

20. "Viewing" means the time and space provided, when made available by and requested from the Funeral Home pursuant to this Policy, for the opportunity for family and friends to view the body. This opportunity will be provided in a small room or designated viewing area with an open casket as deemed appropriate by the Funeral Home and family.

(c) Department Discretion. The Department, with the written approval of the Executive Manager, may waive or adjust certain provisions of this Policy where, as determined by the Executive Manager, such waiver or adjustment will continue to promote the general purpose and intent of this Policy

within the limits of applicable laws. At any time that such waiver or adjustment is requested or suggested, the Executive Manager may make such decision or may refer such decision to the Commissioners Court. Upon granting of any such waiver or adjustment, the Executive Manager will provide written notice to the Commissioners Court of such waiver or adjustment at the earliest possible date.

73.003 Travis County Responsibilities.

(a) Funeral Home Reimbursement. The Funeral Home will be reimbursed pursuant to the contract with the County at the rates set forth in Attachment "A" to this Policy.

(b) Burial Space. Travis County will provide a graveside space at the Travis County International Cemetery, in other space as secured by Travis County for this purpose, or in other space as provided pursuant to this Policy.

(c) Out of County Transportation. Provide compensation in instances where the Funeral Home goes out of the County to pick up a Decedent. The Funeral Home will be reimbursed as set in Attachment "A".

73.004 Funeral Responsibilities.

(a) Contract. Each Funeral Home will provide services under this Policy pursuant to a written contract with the County.

(b) Removal of the Body. The Funeral Home will provide for removal of the Decedent's body from place of death within Travis County. Reimbursement for such removal is included in the contracted price as set forth in the contract. Removal of the body from the place of death outside of Travis County will be allowable if, during the eligibility process, the Decedent is determined to meet residency and other applicable eligibility requirements.

(c) Preparation.

1. General. The Funeral Home will prepare the of Decedent's body for burial pursuant to applicable law.

2. Embalming. It is understood that embalming is not specifically required by law or applicable industry standards in every case prior to burial; however, any body held any place for more than 24 hours after death must either be maintained at a specified temperature, as required by law or applicable industry standards, or embalmed by a licensed embalmer. If embalming occurs other than as required herein, it is at the discretion of the Funeral Home and with the approval of the legal Next of Kin. Appropriate consents must be acquired by the Funeral Home, as required by local, state and federal law. Refrigeration costs are included in the contracted price and no additional reimbursement to the Funeral Home for the embalming will be made by the County.

(d) Casket. The Funeral Home is responsible for provision of appropriate size casket meeting standards of casket industry.

(e) Viewing.

1. Availability. Viewing of the body may take place one (1) hour prior to the scheduled departure for the cemetery. Viewing is not required, but must be offered by the Funeral Home, with determination at the discretion of the Funeral Home and the legal Next of Kin, if available. If the legal Next of Kin does not request a Viewing, a signed statement declining the Viewing, will be obtained by the Funeral Home.

2. Schedule. The time that the casket needs to be at the cemetery will be given to the Funeral Home. The Funeral Home will subtract the travel/loading time and then set the

Viewing time accordingly. The Funeral Home will notify Travis County, through Department, in writing, of the Viewing time, if a Viewing is to occur.

3. Viewing Service. No service is required; however, if a Funeral Home allows/provides for a service during the Viewing time (or allow/provides for any other in-kind enhancements), the Funeral Home must offer the same opportunity for a service or other enhancements to all Participants receiving burial under this Policy and must maintain documentation on those burials that decline the service and/or other enhancements.

(f) Transportation to the Cemetery. The Funeral Home will provide transportation of the casket only to a cemetery within Travis County in a Funeral Home coach or car that meets Funeral Home standards.

(g) Graveside Service. The Funeral Home will conduct a brief graveside service not to exceed 20 minutes time ~~to~~ which will be coordinated by the Funeral Home representative.

(h) Rules of Conduct. The Funeral Home will assist Travis County staff in ensuring that rules of conduct including those of County, the Funeral Home, applicable industry standards and law) at the gravesite are followed.

(i) Documentation. The Funeral Home will file all required documentation per appropriate County, State and Federal laws. Required Travis County documents include affidavits confirming the burial and the family's financial involvement, any changes to the service, an invoice for reimbursement and any other documentation required under this Policy or reasonably requested by County.

(j) Temporary Marker. The Funeral Home will provide a temporary marker in a form approved by County.

73.005 Limitations.

(a) Prior Approval. No approval of assistance prior to death will be provided.

(b) Cremation. The Travis County Burial Assistance Policies do not include cremation as an option.

(c) Additional Services. Family (including the Applicant and any legal Next of Kin) may not pay for additional services. Any changes to the service needs to be brought to the attention of the Funeral Home as it will have to sign an affidavit confirming the family, Applicant or any legal Next of Kin has not paid for additional services.

(d) Location. Unless otherwise authorized under certain exceptions in this Policy, all interments will be at the Travis County International Cemetery. Exceptions include military funerals or the use of an existing legal and paid for family plot. Other exceptions will only be allowed by previous written authorization by the Executive Manager.

(e) Death Certificate. Funeral homes will not give the Applicant, family or any legal Next of Kin the option to request copies of death certificates through their business. Copies of the Death Certificate are available through the Texas Department of Health.

73.006 Eligibility Criteria

(a) General Requirements

1. Purpose. This Section 73.006 sets forth the unified criteria to be used for identification of Households which meet the minimum Indigent Burial Program eligibility

requirements in order to receive assistance under this Policy. Determination of eligibility will be determined by Department according to applicable Department guidelines.

2. Income. Household gross Income, as defined herein, must be at or below 100% of the Federal Poverty Income Guidelines for the past 30-day period.

3. Eligible Decedent. An Eligible Decedent:

- A. must be a Travis County resident at the time of death; or
- B. must have died in Travis County.

4. Next of Kin. Applicant must provide proof the Applicant is the legal Next of Kin as defined in TEXAS HEALTH AND SAFETY CODE ANN., Section 711.002, "Disposition of Remains, Duty to Inter." (see 73.006(c) below)

5. Age. Applicant must at least 18 years of age or an Emancipated Minor.

6. Resource/Assets. Households must have assets or resources more than the allowable limit of \$2,000.00.

7. Referral from Funeral Home. Applicant must make an attempt to make financial arrangements with the Funeral Home prior to requesting services from the County. If the Applicant is unable to make financial arrangements with the Funeral Home, the Funeral Home will then make a referral to Travis County (see Section 73.006(b) below).

(b) Initial Contact. Travis County requires that anyone requesting Indigent Burial Assistance first contact a contracted Funeral Home of their choice and try to make financial arrangements using their own resources. The legal Next of Kin needs to meet in person (or via fax, if out of town or if there are extenuating circumstances), with the Funeral Home to try to arrange a lower cost/most economical funeral arrangement. If this cannot be accomplished, the Funeral Home will refer the individual to the Travis County Department. A written from the Funeral Home referral including any documentation required by County will need to accompany each Applicant's request.

(c) Next of Kin Determination.

1. Identification. In identifying the Next of Kin as the individual responsible for the disposition of remains, the County will follow the guideline set forth in Texas Health and Safety Code Ann., Section 711.002, "Disposition of Remains; Duty to Inter," which currently reads as follows:

Unless a Decedent has left directions in writing for the disposition of the Decedent's remains as provided in Subsection (g), the following persons, in the priority listed, have the right to control the disposition, including cremation, of the Decedent's remains, shall inter the remains, and are liable for the reasonable cost of the internment:

- A. the person designated in a written instrument signed by Decedent;
- B. the Decedent's surviving spouse;
- C. any one of the Decedent's surviving adult children;
- D. either one of the Decedent's surviving parents;
- E. any one of the Decedent's surviving adult siblings; or

F. any adult person in the next degree of kinship in the order named by law to inherit the estate of the Decedent.

2. Guidelines. The County will use the following guidelines in attempting to locate the Next of Kin:

A. Initial Effort. Pursuant to applicable law, the person with control of the body of the Decedent must make a reasonable effort to find the Next of Kin. Documentation of any such efforts made prior to referral to County shall be provided to County. It is expected that family, friends and the Funeral Home will make an effort to determine the Next of Kin and notify County of their findings.

B. Family. It is the responsibility of family/friends of the Decedent to provide any available information as to any individual in a position higher than the Applicant in the list in Section 73.006(c)(1) if such person is living at the time of application.

C. County. County will make a good faith effort to identify and find the Next of Kin based on available information. The Travis County Medical Examiner's office and/or Department will complete the investigation and affidavit.

3. Verification/Documentation. In determining and/or verifying the identity of the Next of Kin, the County will utilize information and documentation provided pursuant to Department guidelines.

(d) Status of Applicant. In determining and/or verifying the existence of a Common Law Marriage and the age and/or Emancipated Minor status of the Applicant, the County will utilize information and documentation provided pursuant to Department guidelines.

(e) Single Application. If an Applicant, who is a legal Next of Kin, is denied assistance, another application may not be accepted by another legal Next of Kin.

(f) No Next of Kin Referral.

1. Available Next of Kin. If the legal Next of Kin does not begin or complete the application process, or if no Next of Kin is available, the County will bury the remains of an eligible Decedent as a "No Next of Kin" referral. If a Next of Kin is available, a statement from the legal Next of Kin to relinquish their rights will be needed to proceed. That letter of relinquishment needs to include:

- A. Name of legal Next of Kin
- B. Date
- C. Name of Decedent
- D. Statement of permission for the County to inter the remains in the form of a signed affidavit identifying the affiant as the Next of Kin, waiving all rights to inter the remains and indemnifying the County against any claims related to the burial.

2. Referral. When no Next of Kin can be identified to apply on the Decedent's behalf, the referral from the Funeral Home will be considered a No Next of Kin referral. Funeral homes will provide as much information as possible on the Decedent for the Department to complete an inquiry into locating the Next of Kin.

3. Information. The County will not provide any information for No Next of Kin Referrals regarding inquiries for services for the Decedent. The Funeral Home may give out information per their policies

4. Next of Kin Location. If a no Next of Kin referral begins, and prior to interment, Next of Kin is located, the Funeral Home or medical examiner's office must contact the Department immediately. Any steps taken will be stopped and the Next of Kin will need to apply to determine eligibility.

(g) Abandoned Body. If a body is abandoned by the Next of Kin or no Next of Kin is identified, the County will proceed pursuant to applicable law.

73.007 Application.

(a) Forms. Applicant with read and sign the "Duties and Responsibilities of Participant," and will complete the Application form which will be reviewed as set forth in this Policy.

(b) Residency Requirement. Residency requirements are as follows:

1. Place of Death. Decedent must be a Travis County resident at the time of death; or have died in Travis County.

2. Out of County Resident. If the person died in Travis County but was a resident of another county, every attempt will be made to bury the person in the County of residence or collect reimbursement from that county for the cost of services provided by Travis County.

3. Nursing Home Resident. If the Decedent is in care at a nursing home or other care environment in a surrounding county, as a result of a lack of Travis County resources to provide the service, a lack of room or non-acceptance of insurance, the person may be considered a Travis County resident, if the Decedent has been in care at the facility no longer than 90 days.

4. Verification of Residence. Department will utilize information provided or available to verify and document fulfillment of residency requirements for Decedent and/or Applicant using applicable County guidelines.

(c) Income and Resources Requirements.

1. Income Test. An Income test will be applied to the legal Next of Kin and his/her Household making application on behalf of the deceased who by law has the right to control the disposition of the Decedent's remains. The Income test will consist of reviewing all Income being received by the Applicant's Household at the time of application in order to determine the Applicant's eligibility for assistance under this Policy. The gross Income must be at or below 100% of the Federal Poverty Income Guidelines.

2. Decedent's Income. The Decedent's Income will be considered in the Income test only if he/she resided in the Applicant's Household at the time of death otherwise the deceased's Income is always considered a resource.

3. Application by Non-Family Member. The Income test will not apply in those situations where there are no surviving relatives known and friend is having to make application on behalf of the deceased. In that situation, only available resources of the deceased will be considered.

4. Verification of Income/Resources: Applicant must provide proof of gross Income for the entire Household. In the exceptional case when proof of Income is unavailable, an Applicant must sign a declaration of Income statement. Proof of Income/resources, forms for documentation, and type of documentation will be provided pursuant to Department guidelines.

5. Maximum Resource Amount. The total resource amount may not ~~to~~ exceed \$2000

6. Insurance Policies: In those situations where the values of the available insurance policy/policies is less than \$2000.00 the family may be referred to the Funeral Home for possible consideration of a private hardship burial funeral arrangement.

7. Decedent's Income. The Decedent's gross Income is always considered a resource unless the Decedent lived in the Applicant's Household. If the Decedent has a financial resource available that is below the \$2000.000 limit, the County will request, in writing, reimbursement up to the amount of the funds expended by the County to inter the remains. Verification of Resources/Assets will be made by Department pursuant to Department policies and procedures.

(d) Letter of Consent. If there are siblings/children or other individuals who qualify as Next of Kin at the same level under Section 73.006(c)(1), every attempt will be made to acquire a letter from each such person who is not the Applicant to verify they are aware of the arrangements being made for the Decedent.

(e) Existing Family Plots/Military Cemeteries. Burial under this Policy may be approved using an existing legal family plot that is paid for prior to the time of death, so long as the family assumes responsibility for acquiring funding for all additional transportation and gravesite preparation fees from someone other than family Applicant or any Legal Next of Kin. In addition, approval may be given under the Policies if a family has obtained permission to use a military cemetery, so long as the family assumes responsibility for acquiring funding for all additional transportation and gravesite preparation fees for someone other than family, Applicant or any Legal Next of Kin.

73.008 Appeal Process

(a) Policy. Clients requesting Indigent Burial services under this Policy have the right to appeal eligibility determination decisions. Such appeals must be made in five (5) days of the rendered decision.

(b) Procedure

1. Caseworker Determination and Notice. If the Caseworker determines client is not eligible for Indigent Burial Services, the Caseworker will give the Applicant written notice of denial on the denial/appeal form

2. Appeal Request. The Applicant will complete the reason for appeal request which the Caseworker will forward to the Social Services Manager, unless the Social Services Manager is not available, in which case the Caseworker will refer the appeal to the acting supervisor (or, to the Division Director if the acting supervisor rendered the original denial decision).

3. Decision. A decision will be rendered within three (3) working days of an appeal request.

4. Continuation. If the Applicant is not satisfied with the appeal decision at the Social Services Manager level, she/he can continue the appeal in the following ascending levels:

- A. Division Director
- B. Executive Manager
- C. Commissioners Court

5. File. The appeal form will be completed and placed in the case file after all appeal hearings.

6. Copies. The Applicant will be given copies of appeal actions

73.009 Application Process

(a) Initial Contact. The Applicant will apply in person after attempts to make reasonable arrangements for burial with the Funeral Home are unsuccessful, unless special circumstance warrant application in another way, as determined by Department.

(b) Out of County Applicant. If the legal Next of Kin lives out of the County, application may be made via fax or mail.

(c) Appointment. Every effort will be made to see the Applicant the same day of inquiry though it may take up to 2 days to see a family due to scheduling issues.

(d) Information. Information will be collected by the caseworker regarding the Decedent's Income and resources and well as the legal Next of Kin's Household's Income and resources. Other eligibility information will be collected as well. The Applicant will be given a reasonable amount of time to get all of the information needed to get all of the information needed to determine eligibility if that information is not available at the time of the first contact.

(e) Case Limit. A case may remain open for a time period of 7 calendar days. If the family does not provide the required information within that time, the case will be denied. The Department reserves the right to extend this time period at the Department's sole discretion. Under ordinary circumstances, no case may remain open longer than 7 days due to the nature of the service provided.

(f) Arrangements. After a decision is made, services will be arranged with the appropriate agency or County Department, if applicable.

(g) Denial. If the Applicant is denied, the Applicant will be referred back to the Funeral Home as a hardship burial. The Applicant has the right to appeal the denial pursuant to Section 73.008 of this Policy.

73.010 Dis-interment

(a) Transportation and Natural Resources Department. Dis-interment is handled through the Travis County Department of Transportation and Natural Resources (TNR). Any inquiries regarding this service will be referred to TNR.

73.011 Funeral Home Rotation List

(a) Establishment of List. A Funeral Home rotation list will be established so that all referring entities will know which Funeral Home to send Decedents who have no Next of Kin to choose a Funeral Home. Next of Kin may choose any Funeral Home regardless of the rotation list schedule in place at the time.

(b) Assignment. Each contracted Funeral Home will be assigned one month to cover (except in relation to the Medical Examiner's Office - see Section 73.11(d) below).

(c) Distribution. The Travis County Family Support Services site will distribute a new rotation list at the beginning of each Fiscal Year or after any changes to contracted Funeral Home vendors.

(d) Medical Examiner's Office. The Travis County Medical Examiner's Office will work on a per Decedent rotation

(e) Acceptance of Assignment. Any Funeral Home not accepting Decedents on their rotation month ~~will~~ may be subject to sanctions outlined in the contract.

Exhibit A

Travis County Schedule of Reimbursement to Funeral Home Vendors for Indigent Burials

(A) Funeral Home Reimbursement

- (1) \$1,000.00 for an oversized adult (at the discretion of the Funeral Home to determine)
- (2) \$ 850.00 for an adult (regular size)
- (3) \$ 500.00 for a child (3 ft. to 5 ft. 6 in. casket)
- (4) \$ 400.00 for an infant (1 ft. 9 in. to 2 ft casket)

(B) Approved out of County Transportation Expense Reimbursements

(1) Mileage will be reimbursed for travel to pick up a Decedent who is eligible for indigent burial under this Policy as a current resident of Travis County, who died outside of Travis County. Mileage reimbursement is set at the current rate the Court allows for Travis County employee mileage reimbursement.

(2) The Funeral Home will need to provide the starting address and address of the pick up.

(3) All mileage numbers will be verified using a reliable internet website or other source as determined by Department.

(4) Costs of up to \$150.00 may be authorized without Executive Manager approval, if funds are available.

(5) Any transportation reimbursement costs that exceed \$150.00 or the budgeted amount of the line item will require Executive manager approval.