



## **Rutherford County Department of Social Services Procedures for Unclaimed Bodies**

According to the North Carolina General Statutes 130A-415 (Attachment 1), Cremation and Order of Payment of Claims in 28A-19-6 (Attachment 2), County Departments of Social Services are responsible for the disposition of bodies that are unclaimed in their county after ten days. Procedures for disposition of the body and authorization of payment for cremation are contained in the following pages.

Upon determination that a dead body is unclaimed, the person having physical possession of the body must contact the Commission of Anatomy in Chapel Hill at 919-966-1134 to determine whether the body can be used for educational purposes prior to releasing the body to the Department of Social Services for final disposition. The body is considered unclaimed ten days after death. Any institution/agency or long term care facility such as assisted living, family care homes, nursing homes and hospice agencies having possession of a potential unclaimed body must contact the local hospital for appropriate storage during the ten day period.

1. Bodies are not to be released to the DSS until ten days after death. The ten-day period may be waived by the DSS director if there is substantial reason to believe that no one is going to claim the body. If the DSS director waives the ten day waiting period, the person having physical possession of the body must contact the Commission of Anatomy immediately prior to releasing the body to the DSS.
2. Immediately following death, any person having physical possession of a dead body will make diligent efforts to contact relatives or friends of the deceased within the ten-day time frame to determine whether the decedent's estate could bear the expense of the cremation. DSS can provide assistance by checking any and all records to determine whether the customer had assets or a life insurance policy.
3. The selection of funeral homes and cremation services by the DSS will be fairly distributed by rotating providers in a randomly chosen sequence. The funeral home or cremation service that is next on the list will be contacted in this sequence until a provider is located who will accept the body. Cremation is the department's choice for disposition of the body. The choice of cremation has been determined to be the most cost efficient way to dispose of the body.
4. If any member of the community wishes to receive the decedent's ashes, they must contact the funeral home or cremation service handling the referral to make these arrangements. DSS will not pay the cost of shipping the remains to the recipient's home or for the urn (or any other storage container). The recipient will incur this cost.
5. Under no circumstances will DSS staff keep ashes of deceased customers in the office or at home. Ashes must be disposed of by the funeral home or cremation service, or claimed (including signing the appropriate paperwork) by the deceased's family or friend(s) that may come forward after the fact.

6. If the decedent's body is not located in Rutherford County at the time of death, the DSS in the county in which the body is located will make plans for the disposition of the body. However, the decedent's county of residence will incur the cost if his/her estate cannot satisfy the expense. If the decedent is not a resident of North Carolina, or the county of residence is not known, the expense will be borne by the county in which the death occurred. Expenses include cost of final disposition and of efforts to notify relatives.
7. The maximum funding amount that may be authorized for cremation is **\$750.00**.
8. The DSS director or his designee (known as the "authorizing agent") will sign all form(s) needed to authorize the cremation. The DSS director or his designee will also sign the form(s) needed to authorize waiver of the ten-day waiting period (if it is to be waived).
9. The Rutherford County Department of Social Services will mail or fax authorization for cremation to the funeral home or cremation service. Rutherford County Department of Social Services will reimburse the funeral home for the cost once the approved invoice is received. The invoice should be sent to:

Rutherford County Department of Social Services  
PO Box 242  
Spindale, NC 28160

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10. A notice of claims against the estate form will be submitted by the Rutherford County Department of Social Services to the Clerk of Superior Court, Estates Division for possible reimbursement. The request must be in writing. There are time limits for filing claims against the estate. Payment of claims may also be affected by the filing date.

#### **Additional Information Relative to Unclaimed Bodies**

- Guardianship ceases at death.
- DSS does not have "pauper burial funds" (money to help people pay for the disposition of indigent or impoverished loved ones).
- Customers should be encouraged to express their wishes and to make as many plans as possible while living.
- Bodies should not be released by a DSS employee to a funeral home or cremation service until the decedent has been determined to be unclaimed.
- Indigence does not determine status as unclaimed, but it will be a factor in recoupment of costs.
- If another county chooses cremation as its manner of disposition, the Social Services Director in that county will be the one to sign the consent for cremation. That Director would be the "authorizing agent" as he/she had the responsibility for making plans regarding the disposition.
- The Social Services Director will only waive the ten-day period if there is substantial reason to believe that no one is going to claim the body. It is expected that this will occur infrequently, due to possible legal issues.
- Additional information pertaining to this topic may be found in the following NC General Statutes:
  - Unclaimed Bodies 130-A-415
  - Cremation 90.210.120
  - Order of Payment of Claims 28-A-196.

- Rules are different for migrant workers. For information on these cases, refer to NC General Statute 130-A-418.

**Points to Remember**

- If the body has already been turned over to a funeral home, it is not unclaimed.
- Hospitals can call DSS before the customer has been deceased for ten days, but DSS may not move the body or waive the ten-day period without the authorization of the DSS Director or his appointee.
- If you have trouble getting information on the customer, go to, EIS, OLV or any other computer application that may provide contact or collateral information. Also, the referring hospital or another county DSS may be called to see if they have contact information for family members.
- If a Rutherford County resident dies unclaimed in another county, that county will dispose of the body. Rutherford County will receive an invoice from that county for the disposition. If the other county exceeds our maximum of \$750.00 for disposal of the body, authorization for the additional funding will need to be approved by the Rutherford County DSS director or his designee prior to the authorization to dispose of the body. If this procedure is not followed, the agency handling the disposition of the body may not be reimbursed fully.
- If a resident of another county dies unclaimed in Rutherford County, DSS in Rutherford County will dispose of the body and send an invoice to the county of residence. **Note** – If the referring county needs help with this process, Rutherford County DSS will assist them with the procedures. If they have questions about their obligation to pay, refer them to the appropriate NC statutory requirements.
- If the decedent was a nursing home, adult care home, family care home or hospice resident advise the facility that the body must be sent to the hospital for proper storage. Advise the facility that they must take the lead in searching for family or friends that the decedent may have had. Also the facility must determine whether any monies remained in the decedent’s account and if so, the facility is required to send it to the Clerk of Superior Court.

The above stated policy was accepted on \_\_\_\_\_

\_\_\_\_\_  
DSS Director

\_\_\_\_\_  
DSS Board Chair

## ATTACHMENT 1

### Part 5. Disposition of Unclaimed Bodies.

#### **§ 130A-415. Unclaimed bodies; bodies claimed by the Lifeguardianship Council of the Association for Retarded Citizens of North Carolina; disposition.**

(a) Any person, including officers, employees and agents of the State or of any unit of local government in the State, undertakers doing business within the State, hospitals, nursing homes or other institutions, having physical possession of a dead body shall make reasonable efforts to contact relatives of the deceased or other persons who may wish to claim the body for final disposition. If the body remains unclaimed for final disposition for 10 days, the person having possession shall notify the Commission of Anatomy. Upon request of the Commission of Anatomy, the person having possession shall deliver the dead body to the Commission of Anatomy at a time and place specified by the Commission of Anatomy or shall permit the Commission of Anatomy to take and remove the body.

(b) All dead bodies not claimed for final disposition within 10 days of the decedent's death may be received and delivered by the Commission of Anatomy pursuant to the authority contained in G.S. 130A-33.30 and this Part and in accordance with the rules of the Commission of Anatomy. Upon receipt of a body by the Commission of Anatomy all interests in and rights to the unclaimed dead body shall vest in the Commission of Anatomy. The recipient to which the Commission of Anatomy delivers the body shall pay all expenses for the embalming and delivery of the body, and for the reasonable expenses arising from efforts to notify relatives or others.

(b1) The 10-day period referenced in subsections (a) and (b) of this section may be shortened by the county director of social services upon determination that a dead body will not be claimed for final disposition within the 10-day period.

(c) Should the Commission of Anatomy decline to receive a dead body, the person with possession shall inform the director of social services of the county in which the body is located. The director of social services of that county shall arrange for prompt final disposition of the body, either by cremation or burial. Reasonable costs of disposition and of efforts made to notify relatives and others shall be considered funeral expenses and shall be paid in accordance with G.S. 28A-19-6 and G.S. 28A-19-8. If those expenses cannot be satisfied from the decedent's estate, they shall be borne by the decedent's county of residence. If the deceased is not a resident of this State, or if the county of residence is unknown, those expenses shall be borne by the county in which the death occurred.

(d) No autopsy shall be performed on an unclaimed body without the written consent of the Commission of Anatomy except that written consent is not required for an autopsy performed pursuant to Part 2 of this Article.

(e) Due caution shall be taken to shield the unclaimed body from public view.

(f) Notwithstanding anything contained in this section, an unclaimed body shall not mean a dead body for which the deceased has made a gift pursuant to Part 3A of this Article.

(g) Nothing in this Part shall require the officers, employees or agents of a county to notify the Commission of Anatomy regarding the bodies of minors who were in the custody of the county at the time of death and whose final disposition will be arranged by the county. In the absence of notification, the expenses of the final disposition shall be a charge upon the county having custody.

(h) The provisions of this Part shall not apply to bodies within the jurisdiction of the medical examiner under G.S. 130A-383 or 130A-384.

(i) In addition to the other duties of the Commission of Anatomy, when the Commission of Anatomy is notified by the Lifeguardianship Council of the Association of Retarded Citizens of North Carolina, Inc., that the Council intends to claim a body, the Commission shall release the body to the Council. The Lifeguardianship Council shall notify the Commission of Anatomy within 24 hours after death of its intent to claim a body for burial or other humane and caring disposition. (1975, c. 694, s. 3; 1977, c. 458; 1983, c. 891, s. 2; 1987, c. 470; 1989, c. 222; c. 770, s. 75; 2008-153, s. 7.)

## ATTACHMENT 2

### § 28A-19-6. Order of payment of claims.

(a) After payment of costs and expenses of administration, the claims against the estate of a decedent must be paid in the following order:

First class. Claims which by law have a specific lien on property to an amount not exceeding the value of such property.

Second class. Funeral expenses to the extent of two thousand five hundred dollars (\$2,500). This limitation shall not include cemetery lot or gravestone. The preferential limitation herein granted shall be construed to be only a limit with respect to preference of payment and shall not be construed to be a limitation on reasonable funeral expenses which may be incurred; nor shall the preferential limitation of payment in the amount of two thousand five hundred dollars (\$2,500) be diminished by any Veterans Administration, social security or other federal governmental benefits awarded to the estate of the decedent or to his or her beneficiaries.

Third class. All dues, taxes, and other claims with preference under the laws of the United States.

Fourth class. All dues, taxes, and other claims with preference under the laws of the State of North Carolina and its subdivisions.

Fifth class. Judgments of any court of competent jurisdiction within the State, docketed and in force, to the extent to which they are a lien on the property of the decedent at his death.

Sixth class. Wages due to any employee employed by the decedent, which claim for wages shall not extend to a period of more than 12 months next preceding the death; or if such employee was employed for the year current at the decease, then from the time of such employment; for medical services within the 12 months preceding the decease; for drugs and all other medical supplies necessary for the treatment of such decedent during the last illness of such decedent, said period of last illness not to exceed 12 months.

Seventh class. A claim for equitable distribution.

Eighth class. All other claims.

(b) Notwithstanding subsection (a) of this section, if payment of the commissions of the personal representative under G.S. 28A-23-3(g) would cause the estate to be unable to pay all claims against the estate of a decedent, then the commissions shall be limited to the amount allowed under G.S. 28A-23-3(a). (1868-9, c. 113, s. 24; Code, s. 1416; Rev., s. 87; C.S., s. 93; 1941, c. 271; 1955, c. 641, s. 1; 1967, c. 1066; 1973, c. 1329, s. 3; 1981, c. 383, ss. 1, 2; 1987, c. 286; 1995, c. 262, s. 8; 2005-180, s. 1; 2005-388, s. 2.)