

Indigent Decedent (Pauper) Disposition Assistance Policy

Hill County, TX 2021

Please read the following carefully to ensure that you fully understand the below policies and procedures for disposition of pauper remains. Failure to comply will result in delaying the process of the application.

General Information:

- I. **Authority:** Hill County is authorized under TEXAS HEALTH AND SAFETY CODE, Title 8 Section 694.002, to provide for disposition of remains of paupers in Hill County and to assist the next of kin of deceased individuals in obtaining disposition of remains where the decedent and / or next of kin are unable to afford burial / cremation of remains and who meet the requirements of this applicable Hill County Policy.
- II. **Provision of Service:** Disposition of Pauper remains assistance may be provided to eligible Hill County residents and families who lack the income or resources to afford any type of funeral expenses and who meet applicable eligibility requirements under this policy. All requests must be approved by designated Hill County employee (Caseworker) prior to disposition of remains. **Cremation is the approved method** for the final disposition of a deceased person with the **ONLY EXCEPTION** being the documented religious affiliation of the deceased pauper who died in Hill County, TX.
- III. **Statutory Guidelines:** Hill County will provide funding for cremation services in accordance with all applicable federal, state and local laws, rules and regulations.

Program Administration:

- I. **Purpose:** The purpose of this policy is to establish standards for administration of the Indigent Decedent (Pauper) Disposition Assistance Policy, per Texas Health And Safety Code, Title 8 Section 694.002 and 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 general application process.
- II. **Definitions:** (In this policy, the following terms will have the meaning set forth herein.)
 1. **Pauper (Indigent Decedent):** A person destitute of means except such as are derived from charity. Specifically, one who receives aid from funds designated for the poor. (As defined by Merriam-Webster)
 2. **Applicant:** Individual applying for assistance under this policy.
 3. **Caseworker:** A qualified Hill County employee who assumes the overall responsibility of timely organizing and ensuring the receipt of needed services for a qualified applicant or the timely notification of the denial of services.

4. Common Law Marriage: A union recognized as a legal marriage under the Laws of Texas which meets certain criteria including the following:
 - (a) Both parties are free to marry
 - (b) Both parties live together
 - (c) Both parties hold out to the public that they are legally married
5. Date of Payment Approval: The date a Caseworker has obtained all necessary information and documents required to approve assistance and initiate the payment process related to receipt of services under this Policy.
6. Decedent: The individual for whom assistance is requested / provided under this Policy.
7. Emancipated Minor: 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.
8. Fiscal Year: The Hill County, TX fiscal year which begins October 1st of each year and ends September 30 of the next following year.
9. Funeral Home: A funeral home which has agreed to accept Hill County's approved payment amount for services pursuant to this Policy.
10. Household: An applicant and those individuals sharing the applicant's housing unit as defined in this Policy although other Next of Kin income will be reviewed.
11. Income: The total monetary receipts from all sources, including tips, before deductions from all sources as set forth in this Policy.
12. Next of Kin: The legal next of kin as defined in TEXAS HEALTH AND SAFETY CODE ANN., Section 711.002, "Disposition of Remains, and Duty to Inter" and Section 38 (a) of Texas Probate Code. The applicant under this Policy must provide proof that applicant is the Next of Kin.
13. Residency: An individual that has a Texas ID#, paid rent / mortgage, and / or applied or received food stamps in Hill County, TX prior to death. Determination of "Residency" will be adhered to as set forth in this Policy.
14. Resource / Assets: The earnings of the household or all legal Next of Kin, the total of which must be less than the allowable limit as set forth in this Policy. Countable Resources / Assets for the program will be determined by this Policy.
15. Third Party: 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 a third party are: employers, school nurses, social service agency representatives, lawyers / paralegals, etc...
16. Thirty-Day Period: The previous thirty calendar days from and including the date of application.

Legal Authority:

Texas Health And Safety Code 694.002

Duty of Commissioner's Court Concerning Disposition of Body of Deceased Paupers

- (a) The commissioner's court of each county shall provide for the disposition of the body of a deceased pauper. *The commissioners' court may adopt rules to implement this section.*
- (b) The commissioner's court shall consider any information, including the religious affiliation of the deceased pauper, provided by a person listed in Section 711.002(a).

- (c) If a county discovers cash in the possession of a deceased pauper, a county may use the cash to pay the actual costs incurred by the county in disposing of the pauper's body.
- (d) All pauper remains that are accepted by Hill County, TX, and that have died within Hill County, TX will be reviewed for appropriateness and to see if they would be eligible for donation as an "Anatomical Gift of Decedent's Body" in accordance with Texas Health and Safety Code 692A.009(11).
- (e) In accordance with Texas Health and Safety Code 692A.007, only the following conditions render a pauper's remains inappropriate for Anatomical Gift of Decedent's Body:

Sec. 692A.007. Refusal To Make Anatomical Gift; Effect Of Refusal

- (a) An individual may refuse to make an anatomical gift of the individual's body or part by:
 - (1) a record signed by:
 - (A) the individual; or
 - (B) subject to Subsection (b), another individual acting at the direction of the individual if the individual is physically unable to sign;
 - (2) the individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or
 - (3) any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.
- (b) A record signed pursuant to Subsection (a)(1)(B) must:
 - (1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual; and
 - (2) state that the record has been signed and witnessed as provided in Subdivision (1).
- (c) An individual who has made a refusal may amend or revoke the refusal:
 - (1) in the manner provided in Subsection (a) for making a refusal;
 - (2) by subsequently making an anatomical gift pursuant to Section 692A.005 that is inconsistent with the refusal; or
 - (3) by destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.
- (d) Except as otherwise provided in Section 692A.008(h), in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

Sec. 692A.009. Who May Make Anatomical Gift Of Decedent's Body Or Part

- (a) Subject to Subsections (b) and (c) and unless barred by Section 692A.007 or Section 692A.008, an anatomical gift of a decedent's body or part for the purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:
 - (1) an agent of the decedent at the time of death who could have made an anatomical gift under Section 692A.004(2) immediately before the decedent's death;

- (2) the spouse of the decedent;
- (3) adult children of the decedent;
- (4) parents of the decedent;
- (5) adult siblings of the decedent;
- (6) adult grandchildren of the decedent;
- (7) grandparents of the decedent;
- (8) an adult who exhibited special care and concern for the decedent;
- (9) the persons who were acting as the guardians of the person of the decedent at the time of death;
- (10) the hospital administrator; and
- (11) any other person having the authority to dispose of the decedent's body.

(b) If there is more than one member of a class listed in Subsection (a)(1), (3), (4), (5), (6), (7), or (9) entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under Section 692A.011 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(c) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under Subsection (a) is reasonably available to make or to object to the making of an anatomical gift.

General Purpose:

All proceedings relating to the final arrangements, for pauper remains shall be conducted with the utmost solemnity and respect for the decedent.

Residency:

- (a) Place of Death: Decedent must be a Hill County, TX resident for a minimum of six (6) months at the time of death and have died in Hill County, TX.
- (b) Nursing Home Resident / Hospital In-Patient: If decedent is in the care of a nursing home or other care facility (i.e. hospital, rehabilitation facility, or other care environment), the person may be considered a Hill County, TX resident if the decedent has been in care of said facility longer than six (6) months. However, if decedent is in nursing home, hospital, rehabilitation facility, or other care environment, and was a resident of another county, at the time of death, and was in any above mentioned facility less than six (6) months, and residency has not been roughly established the funeral home will have assumed all responsibility for that person's final arrangements, or the decedent may be returned to the county of origin, to be disposed of per that county's Indigent Burial Policy.

- (c) Verification of Residence: Hill County will utilize information provided or available to verify and document fulfillment of residency requirements for decedent and / or applicant using applicable Hill County guidelines.

Income and Resource Requirements:

Eligibility requirements shall be based on the same requirements that are used to secure eligibility requirements for Hill County Indigent Healthcare program, as defined by Title 25, Part 1, and Chapter 14 Texas Administrative Code. Authorization by a Hill County Caseworker is mandatory before the preparation and / or disposal of the remains of a person shall happen, for which Hill County, is assuming responsibility for final arrangements. **A funeral home which acts without the express authorization of the Hill County Caseworker, shall assume all responsibility for that person's final arrangements.** Furthermore, the family should contact the funeral home of choice and see what arrangements can be made, with said funeral home, if none can be made said funeral home shall refer decedent's family back to Hill County to begin the application process. Funeral homes shall provide all pertinent information to Hill County Caseworker; all documentation stating the decedent is indeed indigent and qualifies for indigent disposition.

Next of Kin Determination:

Identification:

The funeral home has the responsibility to identify the next of kin. In identifying the next of kin as the individual responsible for the Disposition of Remains, the funeral home 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:

(a) Except as provided by Subsection (l), 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 in accordance with Subsection (a-1) are liable for the reasonable cost of interment:

- (1) the person designated in a written instrument signed by the decedent;
 - (2) the decedent's surviving spouse;
 - (3) any one of the decedent's surviving adult children;
 - (4) either one of the decedent's surviving parents;
 - (5) any one of the decedent's surviving adult siblings;
 - (6) any one or more of the duly qualified executors or administrators of the decedent's estate;
- or

(7) any adult person in the next degree of kinship in the order named by law to inherit the estate of the decedent.

(a-1) If the person with the right to control the disposition of the decedent's remains fails to make final arrangements or appoint another person to make final arrangements for the disposition before the earlier of the 6th day after the date the person received notice of the decedent's death or the 10th day after the date the decedent died, the person is presumed to be unable or unwilling to control the disposition, and:

(1) the person's right to control the disposition is terminated; and

(2) the right to control the disposition is passed to the following persons in the following priority:

(A) any other person in the same priority class under Subsection (a) as the person whose right was terminated; or

(B) a person in a different priority class, in the priority listed in Subsection (a).

(a-2) If a United States Department of Defense Record of Emergency Data, DD Form 93, or a successor form, was in effect at the time of death for a decedent who died in a manner described by 10 U.S.C. Sections 1481(a)(1) through (8), the DD Form 93 controls over any other written instrument described by Subsection (a)(1) or (g) with respect to designating a person to control the disposition of the decedent's remains. Notwithstanding Subsections (b) and (c), the form is legally sufficient if it is properly completed, signed by the decedent, and witnessed in the manner required by the form.

(a-3) A person exercising the right to control the disposition of remains under Subsection (a), other than a duly qualified executor or administrator of the decedent's estate, is liable for the reasonable cost of interment and may seek reimbursement for that cost from the decedent's estate. When an executor or administrator exercises the right to control the disposition of remains under Subsection (a)(6), the decedent's estate is liable for the reasonable cost of interment, and the executor or administrator is not individually liable for that cost.

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

Referral from Funeral Home:

Applicants must make an attempt to make financial arrangements with the funeral home **prior** to requesting services from Hill County, TX, after which, the funeral home will give the applicant a referral letter, and then make a referral to Hill County.

Initial Contact:

Hill County, TX requires that anyone requesting assistance for disposition of indigent remains, first contact the funeral home of their choice and make financial arrangements using their own resources. The legal Next of Kin needs to meet in person (or via fax or electronic means 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 Hill County to accompany each applicant's request. Hill County shall furnish the funeral home with the form for the required referral / request.

Guidelines:

The funeral home will use industry standards as a guideline in attempting to locate Next of Kin, and funeral home will use every reasonable effort to do so (i.e. documentation provided by hospital, or any other available information). Assistance by Hill County may be necessary in locating Next of Kin, but not until all reasonable efforts have been exhausted by the funeral home.

No Next of Kin Referral:

If the legal Next of Kin does not begin or complete the application process, or if no Next of Kin is available, and if all reasonable efforts have been made to identify and locate Next of Kin of the deceased or any other person in authority to dispose of the body under Section 711.002 of the Texas Health and Safety Code, the person in control of the body, can submit a "Letter of Relinquishment" which can begin, in which a statement from the legal Next of Kin will begin to relinquish their rights will be processed. The letter of relinquishment needs to include the following:

- (1) Name of legal Next of Kin
- (2) Date
- (3) Name of Decedent
- (4) Statement of permission for the funeral home to cremate in the form of a signed and notarized affidavit identifying the affiant as the Next of Kin or No Next of Kin, waving the rights to dispose of the remains and indemnifying Hill County against any claims.

Then said person in control of the body can request cremation at the county's expense. However, if Next of Kin is located then the funeral home must notify Hill County immediately, or if Hill County identifies a Next of Kin any steps taken thus far, in the process of No Next of Kin referral shall cease and desist and the Next of Kin

shall apply to Hill County for determination of eligibility. Then if body is abandoned Hill County and funeral home will proceed according to applicable law.

Application Process:

An applicant whom is a legal Next of Kin, who is denied, can only fill out a single application, another application **WILL NOT BE ACCEPTED**, by another legal Next of Kin. Applicant will read and sign the Hill County Fraud Policy and complete the application form in full and it will be reviewed as set forth in this Policy.

Income Test:

An income test will be applied to the decedent's household and the income of legal Next of Kin, to determine income eligibility. The income test will consist of thirty to forty-five (30-45) days of usual, unusual and customary income for all working members of the decedent's household in order to determine eligibility for assistance under this Policy. Income of all Next of Kin will also be reviewed. The Gross Income must be at or below 21% of the Federal Poverty Income Guidelines.

In case of multiple Next of Kin, where decedent for example has no spouse and is survived by children, it is the family's responsibility to provide the reasonable cost of disposition. If legal Next of kin is unable to provide for the disposition, the required documentation is required **within 7 calendar days** in order for Hill County to determine if qualified for assistance. At the discretion of Hill County extensions may be granted under certain circumstances.

In cases where resources / assets are identified, total assets **cannot** exceed \$2,000 or \$3,000 if a person living in the home is age sixty (60) or older or has documented disabilities and they meet the relationship requirements. Assets include vehicles, jewelry, life insurance policies, stocks, physical property, houses, etc... Income test will not apply in cases where there is No Next of Kin or Executor as identified in Section 711.002 of Texas Health and Safety Code, and a friend has to make an application on behalf of the decedent. In that situation, only the available resources of the decedent will be considered. However, if decedent is a sponsored alien, then the finances of the sponsor shall be used to satisfy the income test and verification.

Applicant must provide **proof of gross income for the entire household for the past thirty (30) days. A copy of Federal Income Tax Return must be provided or Social Security Statement.** Proof of income and other required resources or documentation forms will be provided pursuant to Hill County Guidelines and Indigent Healthcare Guidelines.

In those situations where available insurance policy / policies exist, the family will be referred to the funeral home for consideration of a private funeral arrangement. In cases where the Next of Kin are eligible for Hill

County assistance and a policy only covers a portion of the amount allowed for disposition of remains by Hill County, the amount of the insurance policy will be deducted from the amount of the assistance provided.

All Next of Kin, who have decedents, that served in the military, will be referred to the Veteran's Office of Affairs, to enquire about the VA Office providing burial services; or if there are existing plots the Next of Kin will take control of the cremated remains and dispose of them as they see fit, and within legal statutes unless the body is abandoned, at such time, the funeral home will have the remains cremated.

After a decision is made by Hill County, **approval will be issued and the funeral home will be notified** if approved, and services will be arranged with the funeral home.

If the applicant is denied, the reason for denial will be provided and 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 this Policy.

Appeal Process:

Client's requesting assistance for disposition of pauper remains under this Policy have the right to appeal eligibility determination decisions. Such appeals must be made within five (5) business days of a rendered decision.

Procedure:

1. If the caseworker determines the applicant is not eligible for county assistance, the caseworker will provide the applicant with a Written Notice of Denial and reason for said denial.
2. The applicant may submit a written appeal request stating the reason for the appeal and any additional documentation they feel is pertinent and send to the Hill County caseworker within five (5) business days.
3. A decision will be rendered within two (2) business days of an appeal request being received. The decision is final.

Schedule of Reimbursement to Funeral Home:

Funeral homes qualifying for the pauper services shall timely invoice the county and expect payment within thirty (30) calendar days of the receipt of invoice. Following the guidelines on Indigence, invoices will not be considered if received later than ninety-five (95) calendar days from the date of service.

Cremation: The preferred method of disposition of pauper remains, and will be up front and foremost as the preferred method. A price of _____, will be paid to the funeral home.

It is the responsibility of the funeral home to reimburse the crematorium for services. No additional reimbursement will be authorized.

Please note: Hill County approval must be obtained prior to presentation of an invoice from the funeral home, or costs will not be paid.

Additional Provisions:

County may, at its option, relinquish its authority over the disposition of the remains of a pauper once established.

County shall be sole authority regarding the method of disposition of the remains of the pauper.

County will not offer legal advice or opinions to anyone including, but not limited to, social agencies, medical facilities, funeral homes, their employees and / or individuals, concerning the disposition of the remains of the pauper.

Documentation as to the whereabouts of the remains shall be kept in the records of the attending funeral home in accordance with Title 8, Section 711.003 of the Texas Health and Safety Code and copies of those records, shall be filed with the Hill County Clerk's Office.

Proper documentation must accompany the entire process at all times and copies shall be furnished in a timely manner to the Hill County Caseworker. Please make sure all documents are properly filled out.

Any and all authorizations, certificates, orders to cremate, etc... shall be properly filled out in accordance with state law and signed by an employee of Hill County prior to preparation and / or disposition of the remains of a person for which the county is assuming responsibility. If death certificates are not filled out properly, this can delay in funeral homes receiving payment for services.

If after reasonable efforts have been made to identify and locate Next of Kin of the deceased or any other person with authority to dispose of the body under Section 711.002 of the Texas Health and Safety Code, the person in control of the body can request cremation at the county's expense. Said person must file with Hill County an affidavit stating that all reasonable efforts were used to locate Next of Kin but were unsuccessful, before authorization of cremation can be made by Hill County.

Summary:

Policies contained herein are in strict compliance with Title 8 Sections 692A.009 and 694.002 of the Texas Health and Safety Code. These policies are subject to change at any time by order of the Hill County Commissioner's Court. All questions relating to the aforementioned policies should be directed to A Hill County Caseworker.