



August 2009

WEST VIRGINIA INFORMATIONAL LETTER

NO. 170

**TO: All Insurance Companies Authorized to Sell Workers' Compensation Insurance in the State of West Virginia, Employers Authorized to Self Insure Workers' Compensation Risk, Insurance Trade Associations, Insurance Media Publications, and Other Interested Persons.**

**RE: Funeral or Cemetery Expenses pursuant to W. Va. Code §23-4-4(a)**

The purpose of this informational letter is to announce a change in the amount deemed to be reasonable funeral or cemetery expenses pursuant to West Virginia Code Section 23-4-4(a). This code section requires that reasonable funeral or cemetery expenses be paid by the administrator of the claim to the persons who have furnished the services and supplies, or to the persons who have advanced payment for them. The section is set forth below in its entirety:

**§ 23-4-4. Funeral expenses; wrongfully seeking payment; criminal penalties.**

(a) *In case the personal injury causes death, reasonable funeral or cemetery expense, in an amount to be fixed, from time to time, by the commission, and upon its termination, the insurance commissioner, shall be paid from the fund, or the private carrier, payment to be made to the persons who have furnished the services and supplies, or to the persons who have advanced payment for the services and supplies, as the commission may determine proper, in addition to any award made to the employee's dependents.*

(b) *A funeral director or cemeterian, or any person who furnished the services and supplies associated with the funeral or cemetery expenses, or a person who has advanced payment for the services and supplies, is prohibited from making any charge or charges against the employee's dependents for funeral expenses which would result in a total charge for funeral expenses in excess of the amount fixed by the commission, and upon its termination, the insurance commissioner, unless:*

(1) *The person seeking funeral expenses notifies, in writing and prior to the rendering of any service, the employee's dependent as to the exact cost of the service and the exact amount the employee's dependent would be responsible for paying in excess of the amount fixed by the commission or insurance commissioner; and*



(2) *The person seeking funeral expenses secures, in writing and prior to the rendering of any service, consent from the employee's dependent that he or she will be responsible to make payment for the amount in excess of the amount fixed by the commission or the insurance commissioner.*

(c) *Any person who knowingly and willfully seeks or receives payment of funeral expenses in excess of the amount fixed by the commission or the insurance commissioner without satisfying both of the requirements of subsection (b) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined three thousand dollars or confined in jail for a definite term of confinement of twelve months, or both.*

The most recent adjustment to the amount of funeral or cemetery expenses to be paid under West Virginia Code Section 23-4-4 was in 1995, when the amount was set at Five Thousand Dollars (\$5,000.00). It is the opinion of the Insurance Commissioner that this amount no longer reasonably reflects the cost of funeral or cemetery expenses and that it should be increased. Therefore, the Insurance Commissioner hereby directs that in the event a work related injury causes death, the amount of funeral or cemetery expenses to be paid by the party responsible for the claim shall be Seven Thousand Dollars (\$7,000.00). This newly fixed amount shall apply to all funeral and cemetery services provided on or after September 1, 2009.

Questions regarding this informational letter should be directed to the WV Offices of the Insurance Commissioner's Legal Division at [Legal@wvinsurance.gov](mailto:Legal@wvinsurance.gov) or by telephone at 304-558-0401.

ss://Jane L. Cline  
Jane L. Cline  
Insurance Commissioner