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GENERAL ASSISTANCE PROGRAM MANUAL

CHAPTER 100 INTRODUCTION

- 101 Section 50-01-01 of the North Dakota Century Code provides "within the limits of the County Human Services appropriation, each County in this State is obligated, upon receipt of a written application, to provide County General Assistance to persons who are residents of the County and who are eligible."
- 102 The Morton County Social Service Board defines County General Assistance as monetary payment made on behalf of an applicant and his or her family to provide the minimum amount of medical assistance to meet the basic medical needs of the household or provide for payment of burial costs.
- 103 Based on the above quoted section and other sections of Chapter 50-01 of Title 50 of North Dakota State Law, the Morton County Social Service Board has adopted the following rules and regulations to meet its responsibility to the legal residents of Morton County, North Dakota.

The purpose of these rules and regulations is to provide guidelines to staff of the Morton County Social Service Board in determining which applications meet the definition, as established by the Morton County Social Service Board, of which persons are in need of County General Assistance.

CHAPTER 200 ADMINISTRATIVE PROCEDURES

- 201 The County Social Service Board has the responsibility to adopt administrative procedures necessary for the fair and equal administration of the General Assistance Program. The term "Board" shall mean the members of the County Social Service Board. The employees of the County Social Service Board are charged with the responsibility of carrying out the adopted rules and regulations for the administration of the Board's General Assistance Program. The term "Staff" or "Agency" shall mean the employees of the County Social Service Board.
- 201.1 An applicant for the purpose of General Assistance must be a United States citizen or a resident alien who would otherwise be eligible for federally funded public assistance based on their alien status.

202 Application Process: All individuals shall have the opportunity to apply for General Assistance. Any individual may apply either in person by coming to the County Office, by writing or phoning the office and requesting an application to be mailed.

202.1 Consideration of Other Resources and Referrals: All General Assistance applicants are required to explore all other potential resources and/or referrals as a part of the application process. The following are examples of other resources and referrals to be explored: Red Cross, Salvation Army, relative contributions, public assistance benefits, Indian Health, etc. Failure to do so will result in denial of the application. In addition, applicants ineligible for federal or state resources because of fraud and/or program disqualification will result in denial of the application.

203 Decision: The appropriate staff person once having received the information from the applicant necessary to determine all eligibility conditions, shall upon making a decision issue a notice of decision specifying the date of the application, the reason for the request, the action taken, the reason for the action, the date of the decision and an explanation of the applicant's right to appeal. The written notice of decision will be mailed or handed to the applicant within five working days of the date of decision. The County Director or appropriate Supervisor will review all notices of decision prior to notifying the applicant.

204 Appeal Process: If an applicant disagrees with the staff decision, he has the right to appeal. The right to appeal shall be a two-step process on a form prescribed by the agency (see Chapter 1100). The applicant shall state the reasons for disagreeing with the staff decision and shall have the opportunity for an administrative review prior to an appeal before the Board. An Administrative Review is a review of the decision made by the staff.

204.1 The Administrative Review consists of a review of the client's circumstances. Should the client wish to pursue the appeal, the County Director will review the action taken, (a) uphold the decision and schedule a hearing before the Board, or (b) take action to resolve the issue being appealed. A written withdrawal of the appeal by the client shall be required.

204.2 The applicant shall be entitled to a hearing before the Board within 30 days of the notice of decision. The hearing will be held in executive session of the Board. The Board Chair should serve as the chair at the appeal hearing. The chair shall have available necessary information from staff concerning the appeal and shall permit the appealing applicant sufficient time to present any additional information

pertinent to the issue under appeal. The issue being appealed shall be considered by the Board in total and a written notification of the Board's decision shall be made available to the applicant concerning the action taken by the Board on the appeal within 15 work days. The applicant shall also be notified in writing of the right to judicial review according to North Dakota Century Code 28-32.

- 205 Payment Process: Benefits for General Assistance for those applicants who have been determined eligible for benefits shall be made as soon as the appropriate payment can be processed through the County Auditor's Office. All payments of General Assistance will be made by county voucher to a vendor unless approval is granted by the County Director or appropriate staff designee.
- 206 Program Budget: Funding for the General Assistance Program is a line item in the annual calendar year County Social Service Board budget approved by the Board of County Commissioners to be effective January 1 of each year. 50-01-01
- 207 Every County Social Service Board shall maintain reasonable records of General Assistance. 50-01-04
- 208 Duty of relative to aid - Right of recovery by County: The father, mother, and every child of any person who is eligible for County General Assistance and who is unable to work to support oneself shall maintain that person to the extent of the ability of each. The County may recover for necessities furnished to an indigent person from that person's father, mother, or adult children. 50-01-19
- 209 Preferred Claim against Estate: County has preferred claim against estate of recipient of County General Assistance. Funds used for subsistence, medical, hospital, or burial expenses of a recipient of County General Assistance may not be considered as gifts, and the County has a preferred claim against the estate of any person who has received county General Assistance for funds expended for that person and that person's legal dependents. The statute of limitations does not run on this type of claim. 50-01-21

CHAPTER 300 NEED

- 301 General Assistance is an emergency assistance program intended to provide the minimum amount of medical assistance necessary to maintain the basic health of the applicant and his dependents, and for payment of burial costs. Assistance for medical needs is limited to the

maximum line item appropriation of Morton County Social Service Board.

302 Medical Needs: General Assistance payment of medical expenses is considered only after all other public and private resources have been exhausted. The Morton County General Assistance Program will not provide assistance to any individual eligible for North Dakota Medicaid.

302.1 Prescription Medication: The County will pay for all necessary prescription medication, subject to the North Dakota Medicaid maximum payment. Assistance is not provided for items not considered medically necessary, such as sleeping pills, birth control pills, diet pills, etc. A maximum of \$100 per month will be paid for prescription medication. Prescription Discounts Cards must be utilized, when available.

302.2 Medical Supplies: The County will pay for all necessary medical supplies when prescribed by a physician are considered when prescribed by a physician, subject to the North Dakota Medicaid maximum payment rate. A maximum of \$100 per month will be paid for medical supplies.

302.3 Eye exam and glasses: All requests for eye examinations and glasses will be referred to the local Lions Club.

302.4 Hospitalization costs: The County will pay hospitalization costs, as prescribed by a physician and subject to the North Dakota Medicaid maximum payment rate.

302.5 Physician and clinic costs: The County will pay physician and clinic costs, subject to the North Dakota Medicaid maximum payment rates. A maximum of \$100 per physician/clinic visit will be paid.

302.6 Dental care: All requests for routine and emergency dental care are referred to Bridging the Dental Gap.

CHAPTER 400 INCOME

401 Income to consider: All income of all members of the applicant's household will be considered for availability prior to approval for General Assistance.

401.1 Income is defined as earned, unearned, or a lump sum income payment.

401.2 Anticipated income: Income which can be expected to be received by the applicant within 30 days to meet the requested need.

401.3 Pro-rated income: Income from self-employment, IIM accounts, school loans and/or grants, and any other income that is intended to cover a specific amount of time.

402 Income must be verified by the applicant household.

403 Income eligibility will be computed in the following manner: Income from all sources is considered. If monthly household income, earned and unearned, from all sources exceeds 185% of the federal poverty level, there is no eligibility for General Assistance.

CHAPTER 500 RESOURCES

501 All liquid and non-liquid resources of all members of the applicant's household will be considered for availability prior to approval of General Assistance. The resource limit is \$3,000 per household.

502 Liquid Resources: All liquid resources such as cash, savings, stocks, bonds, CD's, etc., of all household members will be considered as available to meet the needs of the household. If their resources equal or exceed the amount of assistance requested, the application will be denied. If the resources available are less than the amount requested, the total resources available will be deducted from the total request to be considered for approval.

503 Non-liquid Resources: In accordance with North Dakota Century Code, ownership of real or personal property by any member of a household, either jointly or individually, shall not preclude the granting of assistance if the applicant is without funds or liquid resources to meet his needs. The value of one vehicle per household is disregarded.

503.1 As a condition to granting assistance, the applicant may be required to transfer such property in trust by appropriate instrument as security for assistance the applicant may receive, unless the property consists of one of the following:

- a. A homestead.
- b. A life insurance policy with a cash surrender value of less than \$300.
- c. Personal property of a value less than \$300, not including household goods, wearing apparel and personal effects, such as money.
- d. Property selected by the applicant having a value of less than \$300.
- e. Real or personal property held in trust for the applicant by the federal government.

- f. Real or personal property on which the taking of security may be prohibited through legislation enacted by the Congress of the United States. 50-01-01

- 504 Other Resources: All other resources will also be considered before action will be taken on any application. Other resources include, but are not limited to: assistance from family and/or friends, loans from financial institutions, and assistance from other programs offered by Morton County Social Service Board or other public or private agencies.
- 505 Release of Liens: All liens held on property will be reviewed annually by the Board (or staff) for possible release.
- 506 Criteria for Releasing a Lien: the household has repaid all assistance approved; the household is financially unable to repay all or part of assistance that was approved; the property no longer exists; or unable to locate household or property.

CHAPTER 600 RESIDENCE

- 600 Residence status will be determined in accordance with the North Dakota Century Code 50-01.

County of Residence for County General Assistance Purposes: A person who has residence in this State, for County General Assistance purposes, is a resident of the County in which the person is living on other than a temporary basis. If a person is living in a County on a temporary basis, the person is a resident of the County in which the person most recently lived other than on a temporary basis. 50-01-26

State of Residence for County General Assistance Purposes: A person who is a resident of this State for purposes of Chapter 50-24.5 is a resident of this State for County General Assistance purposes. If a person moves from this State for other than a temporary purpose, the person's residency in this State for County General Assistance purposes is lost. Residency in this State is presumed lost if:

1. The person plans to be absent or has been absent from this State for one year or longer; or
2. The person receives any form of public assistance, while in another State, which is available only to residents of that State. 50-01-27

Change of Residence to Another County: When a person who is receiving County General Assistance in one County becomes a resident of another County in this State, the

County from which the person moves shall forward appropriate records and files to the new County of residence.
50-02-28

Persons with Uncertain Residence: If the residence of a person is uncertain for County General Assistance purposes, the County in which the person lives shall provide County General Assistance until that person's residence is determined. 50-01-29

CHAPTER 700 GENERAL ASSISTANCE BURIALS

- 701 The following is the Morton County Social Services policy for determining eligibility of applicants requesting General Assistance for payment of a burial upon death, pursuant to North Dakota Century Code 23-06-03. Burial costs will be reimbursed at the current rate as established by the Morton County Social Service Board or negotiated by the Morton County Commission.

Inasmuch as it is impossible for the Morton County Social Service Board to make regulations known to all potential clients of funeral homes, it is the responsibility and obligation of the funeral director to determine the need for financial assistance and to make referrals to Morton County Social Services when appropriate. The Morton County General Assistance Burial Policy ensures that all bodies of deceased poor individuals are disposed of according to state health statutes. This policy does not pay for nor prohibit the provision of a family service.

- 702 Upon receipt of a request for burial assistance, a Morton County Burial Application form must be completed on behalf of the decedent. The County Burial Application requests information from kindred of the first degree (spouse, adult children, parents, grandparents, and adult siblings). This information is used to determine the kindred's ability to be responsible for the burial costs. As according to North Dakota Century Code, they are responsible for those expenses and will be required to participate in those costs if they are able.

The Responsible Relative Affidavit form asks questions about income and resources from the family members of the deceased. A separate affidavit will be asked of the surviving spouse, parents, grandparents, siblings, and each adult child of the deceased. Information on the Burial Application and Relative Affidavit will be verified at the discretion of the County. If a Morton County Burial Application and the Responsible Relative Affidavit is not completed and submitted by the decedent's surviving spouse, parents, grandparents, adult siblings, and adult child or children; eligibility cannot be determined and the request will be denied.

- 703 In determining eligibility for burial assistance, all available resources; including but are not limited to liquid assets and real property owned by the decedent, any assistance available from the Social Security Administration, Civil Service, Railroad Retirement, Veteran's Administration, and life insurance- regardless of the named beneficiary, will be considered. General Assistance approved for payment of burial costs will be reduced by any other assistance deemed available to pay the cost of burial. Collection of resources will be the responsibility of Morton County Social Services.

The current income levels for the Low-income Home Energy Assistance Program (LIHEAP) will be used as a guide when determining the family's ability to contribute towards the burial expenses.

- 704 When the County becomes involved with any portion of payment of burial costs, the County shall make the burial arrangements with the funeral home at the time of death. Any request for burial assistance made after the burial services and interment have been completed will be denied-

CHAPTER 800 NON-DISCRIMINATION

801 This program is administered to all persons on a fair and equal basis without regard to race, color, religion, national origin, age, sex, disability, political beliefs, or status with respect to marriage or public assistance, in accordance with Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, the Age Discrimination Act, the Americans with Disabilities Act, and the North Dakota Human Rights Act.

CHAPTER 900 FRAUD AND IMPROPER PAYMENTS

901 Upon a determination that improper payments were made based on false or incorrect information provided by the General Assistance recipient, the staff of the County Social Service Board will send a minimum of two letters demanding repayment of the improper payment.

902 Upon a determination that fraud may have occurred because of incorrect information provided by the General Assistance recipient, the information gathered will be given to the Morton County State's Attorney for any legal action deemed appropriate.

CHAPTER 1000 BOARD CERTIFICATION

1001 The Morton County Social Service Board has adopted the above rules and regulations, and reserves the right to amend and/or delete as it considers necessary any or all of the preceding rules and regulations at any time upon a majority vote of the Morton County Social Service Board.

CHAPTER 1100 FORMS

General Assistance Application

Responsible Relative Affidavit

Notice of Decision/Request for Hearing

**CHAPTER 23-06
CARE AND CUSTODY OF DEAD**

23-06-01. Right to dispose of one's own body.

Repealed by S.L. 1969, ch. 255, § 12.

23-06-01.1. Immunity from liability.

Repealed by S.L. 1989, ch. 303, § 5.

23-06-01.2. Application of other laws.

Sections 23-06-03, 23-06-04, 23-06-05, 23-06-06, 23-06-07, 23-06-08, 23-06-09, 23-06-10, 23-06-11, 23-06-12, 23-06-16, 23-06-17, and 23-06-19 do not apply to any body or parts thereof disposed of after death pursuant to the authorization for disposal of a body or parts thereof provided in and for the purposes of chapter 23-06.6.

23-06-02. Custody of body.

The person charged with the duty of final disposition of the body of a deceased person is entitled to the custody of such body for the purpose of arranging for final disposition. When the coroner is required to hold an inquest, however, the coroner is entitled to the custody of the body until such inquest has been completed.

23-06-03. Duty of final disposition - Indigent burial - Decedent's instructions.

1. The duty of disposition of the body of a deceased individual devolves upon the following individual in the order of priority:
 - a. Any legally competent adult given the duty of final disposition by the deceased individual in a statement conforming with section 23-06-31, except the legally competent adult specified in the statement conforming with section 23-06-31 may decline the duty of final disposition unless the individual would otherwise have the duty of final disposition under this section;
 - b. The surviving spouse if the deceased was married;
 - c. If the deceased was not married but left kindred, upon the majority of the adult children of the decedent; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by the child who represents to be the sole surviving child or the children who represent to constitute a majority of the surviving children;
 - d. The surviving parent or parents of the decedent, each having equal authority;
 - e. The adult sibling or the majority of the adult siblings of the decedent; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by the sibling who represents to be the sole surviving sibling or the siblings who represent to constitute a majority of the surviving siblings;
 - f. The adult grandchild or the majority of the adult grandchildren of the decedent; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by a grandchild who represents to be the only grandchild reasonably available to control final disposition of the decedent's remains or the grandchildren who represent to constitute a majority of grandchildren reasonably available to control final disposition of the decedent's remains;
 - g. The grandparent or the grandparents of the decedent, each having equal authority;
 - h. The adult nieces and nephews of the decedent or a majority of the adult nieces and nephews; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by a niece or nephew, who represents to be the only niece or nephew reasonably available to control final disposition of the decedent's remains or the nieces and nephews who

- represent to constitute a majority of the nieces and nephews reasonably available to control final disposition of the decedent's remains;
- i. An individual who was acting as the guardian of the decedent with authority to make health care decisions for the decedent at the time of death;
 - j. An adult who exhibited special care and concern for the decedent;
 - k. An individual respectively in the next degree of kinship in the order named by law to inherit the estate of the decedent; or
 - l. The appropriate public or court authority, as required by law. For purposes of this subdivision, the appropriate public or court authority includes the human service zone of the county in which the death occurred if the individual dies without apparent financial means to provide for final disposition or the district court in the county in which the death occurred.
2. If there is only one individual in a degree of relationship to the decedent described in subsection 1, and a district court determines the person and the decedent were estranged at the time of death, the right to control and the duty of disposition devolves to the next degree of relationship under subsection 1. For purposes of this subsection, "estranged" means having a relationship characterized by mutual enmity, hostility, or indifference.
 3. If an individual to whom the right to control and duty of disposition devolves under subsection 1, refuses to accept or declines to act upon the right or duty, that right and duty passes as follows:
 - a. To another individual with the same degree of relationship to the decedent as the individual refusing to accept or declining to act; or
 - b. To the individual in the next degree of relationship to the decedent under subsection 1.
 4. If a dispute exists regarding the right to control or duty of disposition, the parties in dispute or the mortician or funeral director may file a petition in the district court in the county of residence of the decedent requesting the court make a determination in the matter. If the right to control and duty of disposition devolves to more than one individual with the same degree of relationship to the decedent and those individuals do not, by majority vote, make a decision regarding arrangements and final disposition and a district court has been petitioned to make a determination, the court shall consider the following factors in making a determination:
 - a. The reasonableness, practicality, and resources available for payment of the proposed arrangements and final disposition;
 - b. The degree of the personal relationship between the decedent and each of the individuals in the same degree of relationship to the decedent;
 - c. The expressed wishes and directions of the decedent and the extent to which the decedent provided resources for the purpose of carrying out the wishes or directions; and
 - d. The degree to which the arrangements and final disposition will allow for participation by all who wish to pay respect to the decedent.
 5. If the individual who has the duty of final disposition does not arrange for final disposition of the body within the time required by this chapter, the individual next specified shall bury or otherwise dispose of the body within the requirements of this chapter.
 6.
 - a. If the deceased did not leave sufficient means to pay for expenses of final disposition, including the cost of a casket, and is not survived by an individual described by subsection 1 and identified for financial responsibility within the human service zone's general assistance policy, within fifteen days of application for services the human service zone of the county in which the deceased had residence for general assistance purposes or, if residence cannot be established, within fifteen days of application for assistance the human service zone of the county in which the death occurs shall employ a person to arrange for and supervise the final disposition. If the deceased was a resident or inmate of a public institution, within fifteen days of application for assistance the human

- service zone in which the deceased was a resident for general assistance purposes immediately before entering the institution shall employ a person to arrange for and supervise the final disposition.
- b. The department of human services may negotiate with the interested funeral directors or funeral homes regarding cremation expenses and burial expenses but the total charges for burial services, including transportation of the deceased to the place of burial, the grave box or vault, grave space, and grave opening and closing expenses, may not be less than one thousand five hundred dollars.
 - c. The department of human services may provide for the use of a military casket or urn, if the deceased was a veteran as defined in section 37-01-40, unless the additional cost exceeds the negotiated expenses of this section or a surviving spouse or the nearest of kin of the deceased elects a nonmilitary casket.
 - d. The human service zone shall pay the charge for funeral expenses as negotiated by the department of human services. The human service zone may not decrease the human service zone payment due to a nominal amount left by the deceased or contributed by kin or any other party to defray the expenses of burial or cremation. Funds adequate to allow for burial instead of cremation are considered nominal under this section.
7. If the individual with the duty of final disposition under this section, or the personal representative of the decedent's estate, if any, is aware of the decedent's instructions regarding the disposition of the remains, that person shall honor those instructions, to the extent reasonable and possible, to the extent the instructions do not impose an economic or emotional hardship. A decedent's instructions may be reflected in a variety of methods, including pre-need funeral arrangements a deceased articulated and funded in a pre-need funeral service contract, a health care directive, a durable power of attorney for health care, a power of attorney, a will, a document created under section 23-06-31, or a document of gift for an anatomical gift.
 8. If the decedent died while serving in any branch of the United States armed forces, the United States reserve forces, or the national guard, as provided by 10 U.S.C. 1481 section (a)(1) through (8) as effective through December 2001, and completed a United States department of defense record of emergency data, DD form 93, or its successor form or its equivalent branch's form, the duty to bury or cremate the decedent or to provide other funeral and disposition arrangements for the decedent devolves on the person authorized by the decedent pursuant to that form.
 9. A funeral director or mortician has complete authority to control the final disposition and to proceed under this chapter to recover reasonable charges for the final disposition if:
 - a. The funeral director or mortician has actual knowledge none of the individuals described in subsection 1 exist, can be found after reasonable inquiry, or can be contacted by reasonable means; and
 - b. Within thirty-six hours after having been given written notice of the facts, the appropriate court or public authority fails to assume responsibility for disposition of the remains. Written notice may be delivered by hand, United States mail, or facsimile transmission.

23-06-03.1. Payments on pre-need funeral contracts to be deposited - Depository shall keep record of deposit - Personal property storage - Penalty.

Repealed by S.L. 2001, ch. 368, § 7.

23-06-04. Time within which final disposition must be made - Exceptions.

1. The dead body of a human being must be disposed of by the person charged with that duty within eight days after the death of such person except when any of the following occur:
 - a. The right to dissect the body is expressly conferred by law.
 - b. The body is being carried through this state.