



## When a Loved One Dies...Who Pays the Bills?



**Q: Who is responsible for paying the bills of a deceased person?**

**A:** The "estate" of the deceased is primarily responsible. If there is a will, the executor is responsible for collecting the property ("estate") of the deceased, paying the bills and distributing the balance to the beneficiaries named in the will. If there is no will, the court will appoint an administrator (usually a family member) who becomes responsible for collecting the property, paying the bills as approved by the court, and distributing the balance to those family members according to Ohio law. Both the executor and administrator are referred to as the "representative" in this article.

**Q: Who is responsible for making and paying for funeral and burial arrangements?**

**A:** Generally, the answer is the same as above except that Ohio now permits a person to execute a document that specifically authorizes a special representative to make those arrangements, purchase goods and services related to the funeral and identify the source of funds.

**Q: What happens if there is not enough money in the estate to pay the debts and expenses?**

**A:** Similar to personal bankruptcy under federal law, Ohio provides a way to pay creditors depending upon the "class" of creditor and the amount due. The representative may ask the court to declare the estate insolvent because its debts exceed its assets. Creditors must alert the representative of any debts due within six months after the date of death. Following that period, the representative will ask the court for a hearing regarding how

these debts should be paid.

The order in which creditors are paid is determined by their "class" or type. As one class of creditors is paid in full, then the balance is dedicated to the next class of creditors, and so on. In order of priority, creditors are paid according to class for: 1) costs and expenses of administration; 2) funeral expenses up to \$4,000 and burial expenses up to \$3,000; 3) allowance for support of \$40,000 made to the surviving spouse, minor children, or both; 4) federal taxes; 5) expenses of last illness; 6) an additional amount of \$2,000 for funeral expenses; 7) nursing home expenses; 8) state taxes and Medicaid reimbursement; 9) manual labor for decedent within 12 months of death up to \$300 by any one person; and (10) miscellaneous other expenses.

Once the approved claims and expenses are paid, the representative reports its receipts and disbursements to the court. Upon the court's approval, the estate is closed.

**Q: What happens if no one is willing to act as the representative?**

**A:** A creditor may ask the probate court to appoint it as the representative of the deceased's estate, or the court may appoint someone willing to serve (often an independent attorney).

**Q: What assets are subject to unsecured creditors' claims?**

**A:** Probate property is used to pay unsecured creditors' claims. With certain narrow exceptions (namely, Medicaid reimbursement), non-probate property (property held in trust, joint with right of survivorship, beneficiary designated accounts, such as life insurance, etc.) is not subject to creditors' claims unless it was offered as security for a loan.

**Q: Is the surviving spouse liable for any of the bills?**

**A:** No, with some exceptions. If the widow/widower is jointly obligated on a debt, such as a credit card account, he or she may be responsible for the entire debt on that card. If someone provided "necessaries" to the deceased person, the widow/widower may be responsible for that obligation. "Necessaries" include food, shelter, and health.

**Q: How can I make sure my estate pays my debts and funeral expenses when I die?**

**A:** You can buy a pre-need burial contract from a funeral director now to make sure your funeral and burial expenses are covered. Set aside enough money to pay your debts when you die, and do not add someone else's name "with right of survivorship" to that account unless you trust that individual to pay those debts, or it is a "POA" (power of attorney) bank account. The surviving account owner is not obligated to use the account to pay the debts unless the survivor signed a written agreement to do so.

Remember, however, that a power of attorney bank account is considered estate property when the owner dies, and the attorney in fact can no longer write checks after the account owner's death. Purchase life insurance at a reasonable cost now. If you are worried about payment of bills, the beneficiary of the policy should be your estate. If life insurance proceeds are payable to another (including a spouse), the beneficiary is not obligated to pay your debts with those proceeds unless you have made an agreement stating your beneficiary will pay your debts with the insurance money.