



South Dakota

Department of Veterans Affairs
Michael J. Fitzmaurice South Dakota Veterans Home
2500 Minnekahta Avenue
Hot Springs, SD 57747
Phone 605.745.5127
Fax 605.745.5547

Dear _____:

The following summary is provided to help you understand the laws that refer to disposition of assets while residing at the South Dakota Veterans Home.

Because our fees are based on your income and assets, there often is a difference between what you will pay as your monthly maintenance rent and the actual full cost of care. South Dakota Codified Laws provide for a claim against your estate up to the amount of that difference. Therefore, generally it would be illegal to give away assets while you are a resident of the South Dakota Veterans Home.

The specific laws are reprinted below. We recommend that you share a copy of this information with your next of kin.

If you have any questions, please feel free to contact the State Home Business Office at (605) 745-5127.

_____ **SDCL 33A-4-16. Distribution of assets of deceased member.** If any member of the State Veterans' Home dies without legal dependents, the member's property shall be distributed to the South Dakota State Veterans' Home as sole heir for the sole use and benefit of the home. The member may, by will, dispose of the member's estate subject to the preferred claim provided in §§ 33A-4-17 to 33A-4-20, inclusive. A spouse residing at the home is considered as a legal dependent for the purpose of this section.

_____ **SDCL 33A-4-17. Authority to turn deceased member's property over to department--Subsequent claim for property.** If a member of the State Veterans' Home dies, leaving at the home cash or other personal property of value, the superintendent of the home may turn over the cash, property, or its proceeds to the Department of Veterans Affairs for the sole use and benefit of the home, without administration. The cash, property, and proceeds are subject to refund within three years to any creditor, legal dependent, or heir, if the deceased member left a will, and if the creditor, legal dependent, or heir establishes a right to the cash, property, or proceeds or any portion of the cash, property, or proceeds. The attorney general, upon being satisfied that a claim out of the cash, property, or proceeds is legal and valid, may certify the claim to the secretary of veterans affairs, and the secretary of veterans affairs shall satisfy the claim.

_____ **SDCL 33A-4-18. Claim for maintenance of deceased member--Disposition of funds.** If an estate is left by a deceased member of the State Veterans' Home leaving no surviving spouse or dependent, the state home shall file a claim against the estate of the deceased member in the amount of the full maintenance charge for each month the member was in the home, retroactive from the date of admission with proper credits allowed to the estate of the deceased member for any payments made by the member. However, the credits may not include any allowances of the state government. Any such money received from the deceased member shall go to a capital fund of the state home for repairs, equipment, improvements, or construction.

_____ **SDCL 33A-4-19. Claim against estate of deceased spouse or dependent.** If a deceased member of the State Veterans' Home leaves a spouse, or other dependent, the member's estate is payable to the spouse, or other dependent. Upon the death of the spouse or other dependent, the state home shall file a claim against the estate of the deceased spouse or other dependent for any claim against the estate of both the deceased husband and wife as provided in § 33A-4-18. The claim is a preferred claim against the estates.

_____ **SDCL 33A-4-20. Transfers to avoid state's claim.** Any transfer of property to avoid the payment of a claim of the State Veterans' Home shall be voidable.

_____ **SDCL 29A-6-107 Payment to surviving party from multiple-party account -- Liability for debts and expenses of administration -- Procedure -- Liability of financial institution.** No multiple-party account is effective against an estate of a deceased party to transfer to a survivor sums needed to pay debts, taxes, and expenses of administration, including statutory allowances to the surviving spouse, minor children and dependent children, if other assets of the estate are insufficient. A surviving party, P.O.D. payee or beneficiary who receives payment from a multiple-party account after the death of a deceased party shall be liable to account to his personal representative for amounts the decedent owned beneficially immediately before his death to the extent necessary to discharge the claims and charges mentioned above remaining unpaid after application of the decedent's estate. No proceeding to assert this liability may be commenced unless the personal representative has received a written demand by a surviving spouse, a creditor or one acting for a minor or dependent child of the decedent, and no proceeding shall be commenced later than two years following the death of the decedent. Sums recovered by the personal representative shall be administered as part of the decedent's estate. This section does not affect the right of a financial institution to make payment on multiple-party accounts according to the terms thereof or make it liable to the estate of a deceased party unless before payment the institution has been served with process in a proceeding by the personal representative.

I hereby acknowledge that I have received a copy and understand the provisions of SDCL 33A-4-16, 33A-4-17, 33A-4-18, 33A-4-19, 33A-4-20 and SDCL 29A-6-107 regarding the state's preferred claim for maintenance payments of deceased members.

(Initial each law above and sign below to acknowledge.)

Applicant's Signature

Date

Signature of Next of Kin/Witness

Date