

State of West Virginia Department of Human Services

Unclaimed Deceased Body Policy

Bureau for Social Services

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SECTION 1 - INTRODUCTION AND OVERVIEW

1.1 Mission, Vision, and Values

The Department of Human Services, Bureau for Social Services (the department) promotes the safety, permanency, and well-being of children and vulnerable adults, supporting individuals to succeed and strengthening families. Our vision is for all West Virginia families to experience safe, stable, healthy lives and thrive in the care of a loving family and community. Our values include professionalism, integrity, excellence, relationships, and staff contributions.

1.2 Introduction

The department is mandated by state law to assume control of unclaimed bodies when eligibility criteria is met. The department is the last resort to make final arrangement disposition decisions when there are no known or insufficient advance directives, authorized representatives, or next of kin.

1.3 Statutory Basis

[W. Va. Code of State Rules §6-1-25.2.7](#) authorizes the department to determine the disposition of the remains of a deceased person, unless the decedent has next of kin, authorized representative, or other directives.

The right to control the disposition of the remains of a deceased person devolves upon, the following authorized representatives in the order named:

- The person appointed in a dated written advanced directive signed by the decedent, which includes, but is not limited to, a health care directive, medical power of attorney, durable or nondurable power of attorney, or other written advanced directive.
- The surviving legally recognized spouse.
- The surviving biological or adopted child or children of the decedent over the age of majority.
- The surviving parent or parents of the decedent or other permanent legal guardian of the decedent.
- The surviving biological or adopted siblings of the decedent over the age of 18.
- The person or persons respectively in the next degree of kinship in the order named by law to inherit the estate of the decedent.
- The appropriate public or court authority, as required by law, which is the department of the county in which the death occurs if the person dies without apparent financial means to provide for final disposition.

If the circuit court determines that next of kin and the decedent were estranged at the time of death, the right to disposition may transfer to the next individual in order of priority.

[W. Va. Code §16-30-6](#) and [W. Va. Code §44A-4-5](#) gives either a Health Care Surrogate or Guardian the authority to make arrangements for final disposition of the decedent.

[W. Va. Code §30-6-22](#) states no public officer or any person having a professional relationship with the deceased, shall send or cause to be sent to any embalmer, funeral director, or crematory operator the body of any deceased without first inquiring the desires of the next of kin. If any next of kin or person can be found, their authority and direction shall be used as to the disposal of the body of the deceased.

Immunity from Liability

[W. Va. Code §16-19-17](#) states that any person, including a medical examiner, who acts in accordance with this article or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution, or administrative proceeding. Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift. In determining whether a anatomical gift has been made, amended, or revoked under this article, a person to whom a gift passes may rely upon an individual's representations that he or she is the donor, or a person authorized to make a gift of the body or part pursuant to subsection (a), section nine of this article, unless the person to whom the gift may pass knows that the representation is untrue.

1.4 General Definitions

<i>Term</i>	<i>Definition</i>
Advance directives	The existence of a living will, medical power of attorney, durable power of attorney or other advance directive, duly executed by a person alleged to be a “protected person”, as defined in section four of this article, or the prior appointment of a surrogate decision maker for the protected person may eliminate, limit or supersede the need for the assistance or protection of a guardian or conservator, and any person so appointed is to be the first preferred nominee for guardian or conservator, as set forth W. Va. Code §44A-2-8. . See, W. Va. Code §44A-1-3
Authorized representative	The closest next-of-kin or the person entitled to give permission for the preparation and disposition of a dead human body. See, W. Va. Code §16-19 and W. Va. Code of State Rules §6-1-25 .
Decedent	A deceased individual whose body is or may be the source of an anatomical gift. See, W. Va. Code §16-19-3
Disposition of body	The way human remains are handled after death.
Funeral establishment	A place of business maintained and operated and devoted to such activities that are incident, convenient, or related to the preparation and arrangements, financial or otherwise, for the embalming, funeral, transportation, burial, or other disposition of dead human bodies. See, W. Va. Code of State Rules §6-1.2.11

Guardian	A person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term "guardian" does not include guardian ad litem. See, W. Va. Code §16-19-3
Living will	A written, witnessed Advance Directive governing the withholding or withdrawing of life-prolonging intervention, voluntarily executed by a person in accordance with the requirements set forth in state code. See, W. Va. Code §16-30-3
Medical examiner	An individual appointed pursuant to W. Va. Code §61-12-3 <i>et seq.</i> to perform death investigations and to establish the cause and manner of death. The term "medical examiner" includes any person designated by the medical examiner to perform any duties required by this article. See, W. Va. Code §16-19-3
Medical power of attorney	A written, witnessed advance directive that authorizes an individual that is at least 18 years of age to make medical decisions on behalf of another individual. A medical power of attorney must be duly executed prior to the individual becoming incapacitated and duly executed in accordance with the provisions of W. Va. Code §16-30-3 or existing and executed in accordance with the laws of another state. See, W. Va. Code §16-30-3
Power of attorney	A writing or other record that grants authority to an agent to act in the place of the principal, whether or not the term power of attorney is used. See, W. Va. §39B-1-102
Surrogate	An individual 18 years of age or older who is reasonably available, is willing to make health care decisions on behalf of an incapacitated person, possesses the capacity to make health care decisions, and is identified or selected by the attending physician or advanced nurse practitioner in accordance with §16-30-1 <i>et seq.</i> of this code as the person who is to make those decisions in accordance with the provisions of this article. See, W. Va. Code §16-19-3
Unclaimed Body	A deceased body, who has no known Advance Directives, authorized representative, or next of kin, willing and able to make final disposition of the remains of a deceased person.

SECTION 2 - INTAKE

2.1 Introduction

For the department to assume charge and control of an unclaimed body, a report must be made to the department, usually by a hospital, funeral establishment, or the Medical Examiner's office. Referrals can be made to Centralized Intake or the local office.

2.2 Eligibility Criteria

The following criteria must be met:

- No known advance directives.

- No known next of kin or authorized representative willing and able to take charge and control of the body.

If the department serves as substitute decision-maker, the department is the authorized representative and can make disposition of the body. Refer to *Substitute Decision-Maker Policy* for more information.

Whenever these criteria are met, the intake is to be assigned for assessment. For detailed information, refer to [Section 3 Assessment](#).

2.3 Required Information

During the intake process, information gathered must be as complete and thorough as possible. Basic identifying and detailed information about the client are to be gathered during the Intake process and entered in CCWIS as a request to receive intake.

At a minimum, the following information must be collected:

- Name(s) of the decedent.
- County where death occurred.
- Current location of the decedent.
- Directions to location of the decedent.
- Date of birth or approximate age of decedent.
- Date of death.
- Social Security number, if known.
- Last known address of the decedent.
- Name, address, and telephone number of the reporter.
- Relationship of the reporter to the decedent.
- Advance directives in place, if known.
- Legal representative, if known.
- Relatives, if known.
- Type of service(s) reporter/caller is requesting.
- Other relevant information.

When the intake information is completed, the worker sends the intake to the supervisor for a screening decision.

2.4 Referral Disposition

Supervisor's Role

During the intake process, the supervisor must ensure all referrals are appropriately screened for acceptance. Referrals accepted must be assigned to the worker within the first business day from the date of referral.

The supervisor must:

- Review the information collected at intake for thoroughness and completeness.
- Create associations in CCWIS between the current referral and other referrals/investigations/cases as appropriate, as well as merge all duplicate client ID numbers.
- Determine if the referral will be accepted for an assessment or screened out. In determining whether to accept or screen out the referral, the supervisor must consider:
 - The information provided regarding the decedent.
 - Whether or not there are current or previous referrals in CCWIS to assist in locating any next of kin or authorized representative.
 - Whether the information collected appears to meet the definition of an unclaimed body.
 - The sufficiency of information to determine if there are advance directives or location of any relatives.

Accepted

- Document the acceptance of the referral.
- Assign the referral for assessment.

Screened Out

- Document the decision regarding screening.
- Document the reason(s) for the screen-out decision.
- Make referrals to other resources outside the department, if appropriate.

SECTION 3 - ASSESSMENT

3.1 Assessment Definitions

The definitions used below are specific to this section and are a supplement to the general definition section.

Term	Definition
Anatomical gift	A donation of all or part of a human body, to take effect after the donor's death, for the purpose of transplantation, therapy, research, or education. See, W. Va. Code §16-19-3 .
Cremation	Any mechanical, hydrolyzation, or thermal process whereby a dead human body is reduced to ashes and bone fragments. Cremation also includes any other mechanical or thermal process whereby human remains are pulverized, burned, hydrolyzed, re-cremated, or otherwise further reduced in size or quantity. See, W. Va. Code of State Rules §6-1-2
Donor	An individual whose body or part is the subject of an anatomical gift. See, W. Va. Code §16-19-3

Donor registry	A database that contains records of anatomical gifts and amendments to, or revocations, of anatomical gifts. See, See, W. Va. Code §16-19-3
Embalming	The introduction into the vascular system or hollow organs of a dead human body, by arterial or by hypodermic injection, of any chemical substance, fluids, or gasses used for the purpose of preservation and includes disinfection, preservation, or restoration of a dead human body. See, W. Va. Code of State Rules §6-1-2
Portable Orders for Scope of Treatment (POST) form	A standardized form containing orders by a qualified physician, an advanced practice registered nurse, or a physician's assistant that details a person's life sustaining wishes as provided by W. Va. Code §16-30-25 . See, W. Va. Code §16-30-3
Prospective Donor	An individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. The term "prospective donor" does not include an individual who has made a refusal. See, W. Va. Code §16-19-3
WV e-Directive registry	An electronic registry that will house and make available to treating health care providers West Virginian's Advance Directive forms, Physicians Orders for Scope of Treatment (POST) forms and Do Not Resuscitate (DNR) cards. The purpose of e-Directive Registry will make accurate, relevant information available in a medical crisis.

3.2 Introduction

The assessment is the gathering of required information to make an appropriate decision regarding disposition of a deceased body. The assessment involves sending required notifications, contacting individuals, family members, and appropriate entities, searching for advance directives, and when applicable, making final disposition decisions for the deceased individual.

3.3 Time Frames

Arrangements for the disposition of the body should begin immediately and be finalized no later than seven days from the date the intake was received. All contacts must be documented in CCWIS within three business days. All documentation must be completed in CCWIS within thirty days. Refer to [Next of Kin/Authorized Representative](#) for applicable timeframes.

Extension

In rare situations when it is not possible to begin disposition of the body, the worker must request an extension in CCWIS. To request an extension, the worker must submit an extension request to the supervisor prior to expiration of the seven-day response time.

At a minimum, this request must clearly state the following:

- Explanation of why the assigned time frame cannot be met.
- Statement of the extenuating circumstances that exist.
- Estimation of the amount of additional time required.
- Other relevant information.

Based on the information provided, the supervisor may approve or deny the extension request. If approved, the maximum period allowed shall not exceed two days.

3.4 Conducting the Assessment

The body may be released to the funeral establishment prior to making arrangements for disposition of the body and conducting a search for additional information.

Documentation is an integral part of case work and must be thorough, relevant, specific, concise, factual, and professional. If there is any missing information, such as name, last known address, birth date, or other information and the worker learns any of this information at any time, this information must be documented in CCWIS. It is extremely important that contact with any known relative, friends, or other collaterals be accurately, carefully, and thoroughly documented. The information documented in the case record is critical since family members may contact the department later regarding disposition of the body.

All contacts made must be documented in CCWIS on the contact screen within three business days of making the contact. If a pre-need burial or assets are located, this must be documented on the asset screen in CCWIS. All information must be entered prior to sending the assessment to the supervisor for approval. After arrangements have been made for disposition of the body, the conclusion screen must be completed and sent to the supervisor for approval.

Information Gathering

The worker is to conduct a reasonable and thorough search to determine if there are any advance directives, next of kin, authorized representatives, and other relevant information.

Depending upon information available to the worker, a reasonable and thorough search must include, but is not limited to:

- Contact the reporter for more information.
- Contact the Human Gift Registry to determine if the decedent is a registered donor. Refer to [Appendix C](#) for contact information.
- Check with local authorities to determine if they have a report of a missing person or if the person is known to them.
- Conduct or have a search conducted in CCWIS, RAPIDS, OSCAR, and any other department database to determine if other referrals, investigations, and cases already exist for the identified client.
- Review paper files located in county offices.
- Interview any known acquaintances of the decedent.

- Contact local courthouse for pertinent information (property tax records, administrator appointment, marriage/divorce records, birth records, Guardianship/Conservatorship appointments, living will, power of attorney documents, and other legal filings).
- Check with local funeral establishments for family information and pre-need burial.
- Contact the West Virginia Attorney General's Office Consumer Protection Hotline, Pre-Need Burial Division. Refer to *Appendix C* for contact information.
- Contact any known agency or entity affiliation such as churches, clubs, volunteer organizations, prior residential placements, etc.
- Place a call to any telephone numbers located.
- Contact local hospitals for any known information such as medical records, emergency contacts, Portable Order for Scope of Treatment (POST) forms, power of attorney documents, and advance directives.
- If a Social Security number or the individual's name is known, contact the Social Security office and Veterans Administration.
- Contact the e-Directive Registry through West Virginia University (WVU) Center for End-of-Life Care. Refer to *Appendix C* for contact information.
- Contact homeless shelters, local mental health, and other providers to determine if this individual received or is receiving any benefits.
- Conduct an internet search.
- Check personal effects of the decedent in the presence of witnesses, such as law enforcement, medical personnel, funeral establishment staff, etc.
 - If the individual has any documents on their person that gives an indication of their last known address, workers shall contact neighbors or landlords for any known information.

Advance Directives

The worker is to conduct a reasonable and thorough search to determine if there are any advance directives. If any oral or written instructions are discovered, they shall be carried out to the extent that the decedent has provided resources for the purpose of carrying out the directions.

If any written instructions are located, the worker must:

- Obtain a copy of the instrument and file it in the case record, as well as indicate this in Document Tracking in CCWIS.
- Provide a copy of the instrument to the funeral establishment.
- If next of kin or an authorized representative is located, provide them with a copy of the instrument.
- Provide a copy of the instrument to the Sheriff's Department.
- If next of kin or an authorized representative is not located or is unwilling to take control and charge of the body, the worker will carry out the wishes of the decedent to the extent possible.
- Document all information in CCWIS.

If oral instructions are discovered, the worker must:

- Obtain a written statement from the reporter of the oral instructions affirming that this is what the decedent's wishes were.
- If next of kin or an authorized representative is located, provide them with the name, address and telephone number of the reporter who gave the oral instructions.
- Document all information in CCWIS.

If written and oral instructions are not discovered, or if no one is found to assume control and charge of the decedent, the worker will proceed, and authorize instructions for final disposition of the body.

Next of Kin/Authorized Representative

If a next of kin or an authorized representative is located that will take charge and control of the body, the worker must relinquish charge and control of the body to that individual and conclude the Assessment. The next of kin or legal representative must take charge and control of final arrangements within three business days. Immediately following conversation with next of kin or legal representative, workers must utilize the *Unclaimed Body Authorized Representative Letter* to notify the next of kin or legally authorized representative of their duty to make final arrangements within three business days. A copy of this letter must be sent to all authorized representatives/next of kin located for the decedent. The letter shall indicate all individuals who will receive the letter. All letter notifications must be sent via certified mail with signature receipt and uploaded into CCWIS. Refer to *Appendix B* for the *Unclaimed Body Authorized Representative Letter*.

If the next of kin or legal representative does not proceed with final arrangements within three business days, the department will give consent for final disposition.

Financial Responsibility

Human Gift

If the body is accepted as a human gift, all costs related to storage of the body, transportation, embalming at the school, cremation, and other costs, will be at the expense of the school accepting the donation.

Indigent Burial Program

If no financial means are available to pay for the cost of disposition of the body, the funeral establishment director, relative, or friend may make an application to the Bureau for Family Assistance. This is outlined in the Income Maintenance Manual in Chapter 19, Indigent Burial Program section and [W. Va. Code §9-5-9](#). The worker is **NOT** authorized to make the application.

Decedent's Belongings

The worker is not responsible for the disposal of the decedent's belongings and shall not dispose of the decedent's assets. If the decedent has personal or real property, or other assets, they must be disposed of by either the local Sheriff's office or the Unclaimed Property Division of the State Treasurer's Office. Refer to *Appendix C* for contact information.

3.5 Conclusion of Assessment

Assessment Disposition Options

The disposition shall be based on all the information gathered during the assessment. From this information, the worker will determine if the assessment meets the applicable eligibility criteria for the department to assume control and charge of the unclaimed body. For detailed information, refer to [Section 2.2 Eligibility Criteria](#).

All assessments must be brought to conclusion. When the assessment is completed, all the information and findings are to be documented in CCWIS, and the worker will submit the assessment to the supervisor for approval.

Conclusions available to the worker are:

- Close the assessment with the department assuming control and charge of the body.
- Close the assessment, the department donated the body to the Human Gift Registry.
- Incomplete assessment, with next of kin or authorized representative assuming control and charge of the body.
- Incomplete assessment, advance directives discovered.
- Other (Additional comments mandatory when this selection is used).

The Department Assuming Control and Charge of the Body

When the department makes disposition of the decedent, at a minimum, the following information must be obtained for record purposes:

- Death certificate
 - These may be obtained in-state at no cost through the Interstate Paternity Acknowledgement Certification Transmission (IPACT) system.
 - Vital Registration at local county courthouses.
 - West Virginia Health Statistics Center, Division of Vital Registration Office.
- Any document signed by the department, including cremation/burial arrangements, Relative Release document (obtained through the school accepting the human gift), and *Unclaimed Body Letter for Authorized Representative*.
- All other pertinent information and records obtained.

SECTION 4 - NONDISCRIMINATION PROCEDURE & DUE PROCESS STANDARDS, REASONABLE MODIFICATION POLICIES, AND CONFIDENTIALITY

4.1 Nondiscrimination

As a recipient of Federal financial assistance, the Bureau for Social Services (BSS) does not exclude, deny benefits to, or otherwise discriminate against any person on the ground of race, color, national origin, disability, age, sex, religion or creed in admission to, participation in, or receipt of the services and

benefits under any of its programs and activities, whether carried out by BSS directly or through a contractor or any other entity with which BSS arranges to carry out its programs and activities.

This statement is in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (nondiscrimination on the basis of race, color, national origin) ("Title VI"), Section 504 of the Rehabilitation Act of 1973 (nondiscrimination on the basis of disability) ("Section 504"), the Age Discrimination Act of 1975 (nondiscrimination on the basis of age) ("Age Act"), regulations of the U.S. Department of Health and Human Services issued pursuant to these three statutes at Title 45 Code of Federal Regulations Parts 80, 84, and 91.

The Bureau for Social Services shall not retaliate against, intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title VI, Section 504 or the Age Act, or because she or he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing.

In addition, BSS will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all BSS programs, services, and activities. For example, individuals with service animals are welcomed in the Department of Human Services, BSS, offices even where pets are generally prohibited.

In case of questions, or to request an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a BSS program, service, or activity, please contact:

Children and Adult Services
Section 504/ADA Coordinator
350 Capitol St. Rm 691
Charleston, WV 25301
(304) 558-7980

4.2 Non-Discriminatory Placement Protocol

The department ensures that all parties involved in adult welfare programs have equal opportunities. All potential placement providers for vulnerable adults, are afforded equal opportunities, free from discrimination and protected under the [Americans with Disabilities Act](#) (ADA). The department will not deny a potential placement provider the benefit of its services, programs, or activities due to a disability. Under the Americans with Disabilities Act it defines a person with a disability as:

"An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment."

The ADA does not specifically name all the impairments that are covered. The ADA does not allow a person to be discriminated against due to a disability in employment, state and local government

activities, public transportation accommodations, telecommunication relay services, fair housing, air carrier access, voting accessibility or education. Examples of disabilities include physical disabilities which require auxiliary aides and mental health issues. Those persons with substance use disorders, including opioid use disorder, currently participating in a treatment option such as Medication Assisted Treatment (MAT), are also covered by the ADA. Participation in a MAT program is not considered the illegal use of drugs. Qualifying MAT programs are defined in [W. Va. Code §16-5Y-1](#), *et seq.* The ADA also addresses the civil rights of institutionalized people and architectural barriers that impact people with disabilities.

When making diligent efforts to locate and secure appropriate placement for vulnerable adults, a worker cannot discriminate against a potential placement based upon a person with a disability according to the Americans with Disabilities Act (ADA) Title II. The department shall determine if the potential placement for the vulnerable adult represents a direct threat to the safety of the adult. Safety threat decisions will be based on assessment of the individual and the needs of the vulnerable adult, as the safety of the adult always remains at the forefront of the determination of the best interest of an adult, when placing a vulnerable adult in anyone's home. This determination cannot be based on generalizations or stereotypes of individuals.

If a provider protected under the ADA is identified as an appropriate and best interest placement for a vulnerable adult they may, at some point, require services specific to their disability in order to preserve the placement. In such situations, consideration for services must be given if it is in the best interest of the adult to preserve the placement. Any specific auxiliary aids or services should be determined by the worker at no cost to the provider and should be considered on a case-by-case basis.

4.3 Complaint Procedure and Due Process Standards

Complaints Based on Disability or other Forms of Discrimination

It is the policy of the West Virginia Department of Human Services (DoHS), not to discriminate on the basis of race, color, national origin, disability, age, sex, religion, or creed. DHHR has adopted an internal complaint procedure providing for prompt, equitable resolution of complaints alleging discrimination. Laws and Regulations, 28 C.F.R. Part 35 and 45 C.F.R. Part 84, may be examined by visiting <https://www.ada.gov/reg3a.html>. Additional laws and regulations protecting individuals from discrimination in adult welfare programs and activities may be examined by visiting the U.S Department of Health and Human Services website at <https://www.hhs.gov/civil-rights/for-individuals/special-topics/adoption/index.html>.

Any person who believes someone has been subjected to discrimination on the basis of race, color, national origin, disability, age, sex, religion, or creed may file a complaint under this procedure. It is against the law for the Bureau for Children and Families, including employees, contracted providers or other BSS representatives, to retaliate in any way against anyone who files a complaint or cooperates in the investigation of a complaint.

Procedure

Complaints due to alleged discriminatory actions must be submitted to the West Virginia Office of Shared Administration, Office of Human Resources Management Equal Employment Opportunity (EEO)/Civil Rights Officer within sixty (60) calendar days of the date the person filing the complaint becomes aware of the alleged discriminatory action.

The complainant may make a complaint in person, by telephone, by mail, or by email. To file the complaint by mail or email, a Civil Rights Discrimination Complaint Form, IG-CR-3 (See Appendix A) must be completed and mailed or emailed to the West Virginia Office of Shared Administration, Office of Human Resources Management, EEO/Civil Rights Officer, One Davis Square, Suite 400, Charleston, WV 25301 or email at OSACivilRights@WV.Gov. If the complainant requires assistance completing the IG-CR-3 form, they may request assistance from the department. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought. The complainant may also contact the WVDohS, EEO/Civil Rights Officer, for more information.

West Virginia Office Of Shared Administration
Office of Human Resources Management
EEO/Civil Rights Officer
One Davis Square, Suite 400, Charleston, WV 25301
OSACivilRights@WV.Gov (email)

The EEO/Civil Rights Officer shall conduct an investigation of the complaint. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. The EEO/Civil Rights Officer will maintain the files and records of Bureau for Social Services relating to such complaints. To the extent possible, and in accordance with applicable law, the EEO/Civil Rights Officer will take appropriate steps to preserve the confidentiality of files and records relating to complaints and will share them only with those who have a need to know.

The EEO/Civil Rights Officer shall issue a written decision on the complaint, based on the preponderance of the evidence, no later than 30 calendar days after its filing, including a notice to the complainant of his or her right to pursue further administrative or legal remedies. If the EEO/Civil Rights Officer documents exigent circumstances requiring additional time to issue a decision, the EEO/Civil Rights Officer will notify the complainant and advise them of his or her right to pursue further administrative or legal remedies at that time while the decision is pending. The person filing the complaint may appeal the decision of the EEO/Civil Rights Officer by writing to the Director of Human Resources within 15 calendar days of receiving the EEO/Civil Rights Officer's decision. The Director of Human Resources shall issue a written decision in response to the appeal no later 30 calendar days after its filing.

The person filing the complaint retains the right to file a grievance with the U.S. Department of Health and Human Services, Office for Civil Rights, regardless of the decision made by the West Virginia Department of Human Services.

The availability and use of this procedure does not prevent a person from pursuing other legal or administrative remedies, including filing a complaint of discrimination on the basis of race, color, national origin, disability, age, sex, religion or creed in court or with the US Department of Health and Human Services, Office for Civil Rights. A person can file a complaint of discrimination electronically through the Office for Civil Rights Complaint portal at: <https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf> or by mail or by phone at:

U.S. Department of Health & Human Services
Office for Civil Rights
200 Independence Ave., S.W.
Room 509F HHH Bldg.
Washington, D.C. 20201
800-368-1019 (voice) 800-537-7697 (TDD)
OCRComplaint@hhs.gov

For complaints to the Office for Civil Rights, complaint forms are available at: <https://www.hhs.gov/ocr/complaints/index.html>. Complaints shall be filed within one hundred and eighty (180) calendar days of the date of the alleged discrimination.

The Bureau for Social Services will make appropriate arrangements to ensure that individuals with disabilities and individuals with Limited English Proficiency are provided auxiliary aids and services or language assistance services, respectively, if needed, to participate in this process. Such arrangements may include, but are not limited to, providing qualified interpreters, providing recorded material for individuals with low vision, or assuring a barrier-free location for the proceedings. The EEO/Civil Rights Officer will be responsible for such arrangements.

Grievances Regarding the Adult Services Worker or Casework Process

At any time that the Bureau for Social Services is involved with a client, the client, or the counsel for the vulnerable adult has a right to express a concern about the manner in which they are treated, including the services they are or are not permitted to receive.

Whenever a vulnerable adult or counsel for the vulnerable adult has a complaint about Adult Services or expresses dissatisfaction with Adult Services the worker will:

- Explain to the client the reasons for the action taken or the position of the BSS which may have resulted in the dissatisfaction of the client.
- If the situation cannot be resolved, explain to the client his/her right to a meeting with the supervisor.
- Assist in arranging for a meeting with the supervisor.

The supervisor will:

- Review all reports, records and documentation relevant to the situation.

- Determine whether all actions taken were within the boundaries of the law, policies and guidelines for practice.
- Meet with the client.
- If the problem cannot be resolved, provide the client with the form “Client and Provider Hearing Request”, SS-28.
- Assist the client with completing the SS-28, if requested.
- Submit the form immediately to the Chairman, state board of Review, DHHR, Building 6, Capitol Complex, Charleston, WV 25305.

For more information on Grievance Procedures for Social Services please see Common Chapters Manual, Chapter 700, and Subpart B or see W.Va. Code §29A-5-1.

Note: Some issues such as the decisions of the Circuit Court cannot be addressed through the Grievance Process. Concerns about or dissatisfactions with the decisions of the Court including any approved Case plan must be addressed through the appropriate legal channels.

4.4 Reasonable Modification Policy

Purpose

In accordance with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (ADA), the Bureau for Social Services shall not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. The BSS shall make reasonable modifications in Adult Services program policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless BSS can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

Policy

DHHR is prohibited from establishing policies and practices that categorically limit or exclude qualified individuals with disabilities from participating in the BSS Adult Services program.

The Bureau for Social Services will not exclude any individual with a disability from the full and equal enjoyment of its services, programs, or activities, unless the individual poses a direct threat to the health or safety of themselves or others, that cannot be mitigated by reasonable modifications of policies, practices or procedures, or by the provision of auxiliary aids or services.

The Bureau for Social Services is prohibited from making Adult Services program application and retention decisions based on unfounded stereotypes about what individuals with disabilities can do, or how much assistance they may require. The BSS will conduct individualized assessments of qualified individuals with disabilities before making Adult Services application and retention decisions.

The Bureau for Social Services may ask for information necessary to determine whether an applicant or participant who has requested a reasonable modification has a disability-related need for the modification, when the individual's disability and need for the modification are not readily apparent or

known. BSS will confidentially maintain the medical records or other health information of Adult Services program applicants and participants.

The Bureau for Social Services upon request, will make reasonable modifications for qualified Adult Service program applicants or participants with disabilities unless BSS can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. Individuals do not need to reference Section 504 or Title II or use terms of art such as “reasonable modification” in order to make a request. Further, BSS staff are obligated to offer such reasonable accommodations upon the identification of a qualifying disability or to an individual with Limited English Proficiency.

BSS must consider, on a case-by-case basis, individual requests for reasonable modifications in its Adult Services programs, including, but not limited to, requests for substitute caregivers, respite caregivers, more frequent support from a case worker, additional classroom and/or online training, mentorship with an experienced foster/adoptive parent, note takers, and other auxiliary aids and services. When auxiliary aids or language interpretation services to ensure effective communication for individuals with hearing, vision, speech impairments, or Limited English Proficiency (LEP) are needed, they shall be provided to the participant at no additional costs. DHHR evaluates individuals on a case by case basis to provide auxiliary aids and services as necessary to obtain effective communication. This would include but not be limited to:

- Services and devices such as qualified interpreters, assistive listening devices, note takers, and written materials for individuals with hearing impairments.
- And qualified readers, taped texts, and Brailed or large print materials for individuals with vision impairments.
- Access to language and interpretation services.

For more information on obtaining auxiliary aids, contact:

Center for Excellence in Disabilities (CED)
959 Hartman Run Road
Morgantown, WV 26505
Phone: 304-293-4692.
Toll Free: (888) 829-9426
TTY: (800) 518- 1448

For language translation and interpretation services Adult Services may Contact 911 Interpreters or the Section 504/ADA Coordinator (see also section 11.5 Limited English Proficiency). To contact 911 Interpreters, utilize the information below:

911 Interpreters Inc.
1-855-670-2500
BSS Code: 16233

When requesting language translation services directly through 911 Interpreters, staff must report the accommodation to the Section 504/ADA Coordinator by completing the *Reasonable Accommodation Reporting Form*.

The Bureau for Social Services will not place a surcharge on a particular qualified individual with a disability or any group of qualified individuals with disabilities to cover the cost of measures, such as the provision of auxiliary aids and services or program accessibility, that are necessary to provide nondiscriminatory treatment required by Title II of the ADA and Section 504.

To address any violations of this Reasonable Modification Policy, consult the Bureau for Social Services Grievance Procedure. To request reasonable modifications, or if you have questions, please contact:

Children and Adult Services
Section 504/ADA Coordinator
350 Capitol St. Rm 691
Charleston, WV 25301
(304) 558-7980
DHHRCivilRights@WV.Gov (email)

Staff who make reasonable accommodations for an individual must be reported to the Section 504/ADA Coordinator utilizing the *Reasonable Accommodation Reporting Form*.

4.5 Limited English Proficiency

The Bureau for Social Services (BSS) will take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access and an equal opportunity to participate in our services, activities, programs and other benefits. The policy of BSS is to ensure meaningful communication with LEP clients and their authorized representatives involving their case. The policy also provides for communication of information contained in vital documents, including but not limited to, information release consents, service plans, etc. All interpreters, translators and other aids needed to comply with this policy shall be provided without cost to the person being served, and clients and their families will be informed of the availability of such assistance free of charge. Language assistance will be provided through use of contracted vendors, technology, or telephonic interpretation services. All staff will be provided notice of this policy and procedure, and staff that may have direct contact with LEP individuals will be trained in the effective use of an interpreter and the effective use of technology including telephonic interpretation services. The Bureau for Social Services will conduct a regular review of the language access needs of our population, as well as update and monitor the implementation of this policy and these procedures, as necessary.

Procedures:

1. IDENTIFYING LEP PERSONS AND THEIR LANGUAGE

The Bureau for Social Services will promptly identify the language and communication needs of the LEP person. If necessary, staff will use a language identification card (or "I speak cards," available online at www.lep.gov) or posters to determine the language. In addition, when records are kept of past

interactions with clients or family members, the language used to communicate with the LEP person will be included as part of the record.

2. OBTAINING A QUALIFIED INTERPRETER

911 Interpreters Inc. has agreed to provide qualified interpreter services. The agency's telephone number is 1-855-670-2500 (BSS Code: 16233). Interpretation services are available 24 hours a day. Some LEP persons may prefer or request to use a family member or friend as an interpreter. However, family members or friends of the LEP person will not be used as interpreters unless specifically requested by that individual and **after** the LEP person has understood that an offer of an interpreter at no charge to the person has been made by the facility. Such an offer and the response will be documented in the person's file. If the LEP person chooses to use a family member or friend as an interpreter, issues of competency of interpretation, confidentiality, privacy, and conflict of interest will be considered. If the family member or friend is not competent or appropriate for any of these reasons, BSS will provide qualified interpreter services to the LEP person free of charge. Children and other clients will **not** be used to interpret, in order to ensure confidentiality of information and accurate communication.

3. PROVIDING WRITTEN TRANSLATIONS

When translation of vital documents is needed, BSS will submit documents for translation to 911 Translators Inc. or the Section 504/ADA Coordinator. BSS will generally provide language services in accordance with the following guidelines:

- A. BSS will provide written translations of vital documents for each eligible LEP language group that constitutes five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or
- B. If there are fewer than 50 persons in a language group that reaches the five percent threshold in (a), BSS will not translate vital written materials but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

Additionally, when making a determination as to what languages services will provided, BSS may consider the following factors: (1) the number and or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the grantee/recipient and costs.

Documents being submitted for translation will be in final, approved form with updated and accurate information. Staff who utilize 911 Translators must report the utilization using the *Reasonable Modification Reporting Form* to the Section 504/ADA Coordinator.

Documents being submitted for translation will be in final, approved form with updated and accurate information. Staff who utilize 911 Translators must report the utilization using the *Reasonable Modification Reporting Form* to the Section 504/ADA Coordinator.

4. PROVIDING NOTICE TO LEP PERSONS

The Bureau for Social Services will inform LEP persons of the availability of language assistance, free of charge, by providing written notice in languages LEP persons will understand. At a minimum, notices and signs will be posted and provided in DHHR office lobbies and waiting areas. Notification will also be provided through one or more of the following: outreach documents and program brochures.

5. MONITORING LANGUAGE NEEDS AND IMPLEMENTATION

On an ongoing basis, BSS will assess changes in demographics, types of services or other needs that may require reevaluation of this policy and its procedures. In addition, BSS will regularly assess the efficacy of these procedures, including but not limited to mechanisms for securing interpreter services, equipment used for the delivery of language assistance, complaints filed by LEP persons, feedback from clients and community organizations, etc.

APPENDIX A DoHS CIVIL RIGHTS DISCRIMINATION COMPLAINT FORM



STATE OF WEST VIRGINIA
DEPARTMENT OF HUMAN SERVICES
BUREAU FOR SOCIAL SERVICES

Civil Rights Discrimination Complaint Form

Complainant First Name		Complainant Last Name
Home Phone <i>(include area code)</i>		Work Phone <i>(include area code)</i>
Street Address		City
State	Zip Code	Email <i>(if available)</i>

Is this complaint being completed by someone other than the complainant? ☐ Yes ☐ No

If yes, please provide your information below:

First Name	Last Name	Telephone Number <i>(include area code)</i>
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The complainant feels they have been discriminated against on the basis of:

- ☐ Race/Color/National Origin ☐ Religion/Creed ☐ Sex
☐ Disability ☐ Age

Who or what bureau within the West Virginia Department of Health and Human Resources is believed to have been discriminatory?

Name/Bureau/Office		
Street Address	City	County
Zip Code	Telephone	

Date(s) discriminatory action is believed to have occurred:

Which program(s) is the complainant alleging the discriminatory action took place in?

- ☐ Child Welfare *(includes CPS, Youth Services, Foster Care, Adoption, home finding, and Legal Guardianship)* ☐ Adult Welfare *(includes APS, Guardianship, Health Care Surrogate, Residential Services Request to Receive and Request to Provide)* ☐ Low Income Energy Assistance Program (LIEAP)
☐ Temporary Assistance for Needy Families (TANF) ☐ School Clothing Voucher ☐ Indigent Burial

Complaints involving the Supplemental Nutrition Assistance Program (SNAP) must be sent directly to the U.S. Department of Agriculture. See below for more information.

Describe briefly what happened. How and why does the complainant believe they have been discriminated against? What is the relief or remedy sought by the complainant?

(Attach additional pages as needed.)

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Please sign and date this form. If submitting by email, you may type your name and date. Your email will represent your signature.

Signature	Date (mm/dd/yyyy)
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The West Virginia Department of Human Services shall not retaliate against, intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title VI, Section 504 or the Age Act, or because she or he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing.

EEO/Civil Rights Officer shall conduct an investigation of the complaint. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. EEO/Civil Rights Officer will maintain the files and records of DoHS relating to such grievances. The EEO/Civil Rights Officer shall issue a written decision on the complaint no later than thirty (30) calendar days after its filing, unless the Coordinator documents exigent circumstances requiring additional time to issue a decision. To submit this complaint or request additional information, please contact:

West Virginia Office Of Shared Administration
Office of Human Resources Management
EEO/Civil Rights Officer
One Davis Square, Suite 400, Charleston, WV 25301
OSACivilRights@WV.Gov(email)

The person filing the grievance retains the right to file a grievance with the U.S. Department of Health and Human Services, Office for Civil Rights, regardless of the decision made by the West Virginia Department of Human Services. The availability and use of this grievance procedure does not prevent a person from filing a private lawsuit in Federal court or a complaint of discrimination on the basis of being a member of a protected class, with the:

U.S. Department of Health & Human Services
200 Independence Ave., S.W.
Room 509F HHS Bldg.
Washington, D.C. 20201
800-368-1019 (voice)
202-619-3818 (fax)
800-537-7697 (TDD)
OCRComplaint@hhs.gov (email)
The complaint form may be found at <https://www.hhs.gov/ocr/complaints/index.html>

For SNAP complaints, please contact the U.S. Department of Agriculture.

The USDA Program Discrimination Complaint Form, can be found online at: <https://www.ocio.usda.gov/document/ad-3027>, or at any USDA office. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form by mail, email, or fax to:

U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW Washington, D.C. 20250-9410
(202) 690-7442 (fax)
(866) 632-9992 (telephone)
program.intake@usda.gov (email)

APPENDIX B UNCLAIMED BODY AUTHORIZED REPRESENTATIVE LETTER

Date

**(Name of Next of Kin or Authorized Representative
Street Address
City, State Zip)**

Dear **(Insert Name)**

Based upon information received by the West Virginia Department of Human Services, Bureau for Social Services, Adult Protective Services, it has been determined that you are the next of kin or legal authorized representative of **(Insert Client Name)**. A referral for Unclaimed Deceased Body has been made and final disposition of the deceased is required.

The date of death was **(insert date)** and the body of **(insert client's name)** is currently resting at **(insert name of funeral home or facility)**. As the next of kin or legally authorized representative, please contact **(insert name of funeral home/facility)** within three days upon receiving this letter and make final arrangements if you have not done so already.

Under W. Va. Code of State Rules §6-1-2, should a body go unclaimed, or if you do not make final arrangements, either the West Virginia Department of Human Services may give consent to the funeral home for final disposition, or the funeral home may decide to embalm an unclaimed body within twelve hours after attempts to contact the authorized legal representative have gone without success.

If no financial means are available to pay for the cost of disposition of the body, you may make an application to the Bureau for Family Assistance at the local West Virginia Department of Human Services. This is outlined in the Income Maintenance Manual in Chapter 19, Indigent Burial Program section and W. Va. Code §9-5-18.

Should you have any questions or need further assistance, please contact me.

Sincerely,

Worker Name

Title

Phone Number

Email

CC:

APPENDIX C CONTACT INFORMATION

West Virginia Human Gift Registry

The Human Gift Registry and may be reached at (304) 293-5979. This is the primary contact that should be used when the body is being considered for Human Gift donation.

Frequently Asked Question (FAQs) about the Human Gift Registry can be found at <https://medicine.hsc.wvu.edu/anatomy/human-gift-registry/questions/>

West Virginia University

School of Medicine

Human Gift Registry

P.O. Box 9131

Morgantown, WV 26506

Phone number: 304-293-6322

Marshall University

School of Medicine

Human Gift Registry

1542 Spring Valley Drive

Huntington, WV 25704

Phone number: 304-696-7382

West Virginia School of Osteopathic Medicine

Human Gift Registry

400 N. Lee Street

Lewisburg, WV 24901

Phone number: 304-647-6208

West Virginia Attorney General's Office Consumer Protection Hotline, Pre-Need Burial Division

Phone: 800-368-8808 or 304-558-1854

West Virginia Center for End-of-Life Care

The office hours are Monday through Friday 9:00 a.m. to 4:00 p.m.

Toll-free phone: 877-209-8086

Email: registryinfo@hsc.wvu.edu

Mailing Address:

64 Medical Center Drive

P.O. Box 9022 Health Sciences North

Morgantown, West Virginia 26506-9022

Unclaimed Property Division of West Virginia State Treasury

322 70th Street, SE,

Charleston, WV 25304

Phone number: 800-642-8687