

**OPINION  
56-146**

October 17, 1956 (OPINION)

PUBLIC WELFARE

RE: Recovery From Estate of Recipient

This is in reply to your letter requesting information in re burial expenses of persons receiving welfare aid, where such person is found to have money or property, subsequent to his death, with particular regard to the point of whether or not a funeral bill of more than one hundred fifty dollars could be incurred.

Section 50-0734 of the 1953 Supplement to the N.D.R.C of 1943 provides:

"50-0734. Recovery from the Estate of Recipient of Assistance. On the death of any recipient of old age assistance under the provisions of this chapter, the total amount of assistance paid under this chapter shall be allowed as a preferred claim against the estate of such person in favor of the state, after funeral expenses for recipient and his or her spouse, not to exceed in each individual case one hundred fifty dollars, and such expenses of the last illness of recipient and spouse as are authorized or paid by the county agency, have been paid, and after the expenses of administering the estate, including the attorney's fees approved by the court, has been paid. No claim shall be enforced against the following:

1. Real estate of a recipient for the support, maintenance, or comfort of the surviving spouse or a dependent;
2. Personal property necessary for the support, maintenance, or comfort of the surviving spouse or a dependent;
3. Personal effects, ornaments, or keepsakes of the deceased, not exceeding in value two hundred dollars."

From such statute and from section 30-1818 of the N.D.R.C. of 1943, it is apparent that the expenses of the last sickness and funeral are a preferred claim against the estate, however, it is our opinion that section 50-0734 of the 1953 Supplement to the N.D.R.C. of 1943 (quoted supra) being a later enactment, would control and in this instance would have the effect of limiting the amount of such preferred claim to the sum of one hundred fifty dollars. Obviously, of course, if the estate of the deceased was more than sufficient to repay the welfare board for public welfare expenditures, and amount larger than one hundred fifty dollars could be expended for funeral bills and could be allowed as a preferred claim (against every creditor excepting the welfare board) under said section 30-1818.

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