Frequently Asked Questions (FAQs)

General Information

1. What is VA’s Pre-Need Burial Determination of Eligibility program?

VA’s Pre-Need Determination of Eligibility program will assist anyone who would like to know if they are eligible for burial in a VA national cemetery. To encourage Veterans and their eligible family members to use VA burial benefits, VA is promoting this advance planning program.

If you wish to bury a deceased individual, contact a local funeral home or the National Cemetery Scheduling Office at (800) 535-1117 to expedite eligibility determination and burial scheduling. Do not request a pre-need eligibility determination.

2. Who can apply for a pre-need burial eligibility determination and how do they apply?

Anyone can apply for a pre-need burial eligibility determination for themselves by submitting VA Form 40-10007, Application for Pre-Need Determination of Eligibility for Burial in a VA National Cemetery to the National Cemetery Scheduling Office (NCSO) by: toll-free fax at (855) 840-8299; email to Eligibility.PreNeed@va.gov; or mail to the National Cemetery Scheduling Office, P.O. Box 510543, St. Louis, MO 63151. Applicants should provide documentation of military service, (such as a DD 214 or other record of discharge) if readily available; if not apply anyway.

If VA does not have and cannot locate adequate information to make a decision on a pre-need claim, VA will notify you regarding what information is required for determining eligibility and will provide assistance in obtaining information from other sources. You will have an opportunity to provide additional information.

3. Who is eligible for VA burial benefits?

Burial in a VA national cemetery is open to all members of the armed forces and Veterans who have met minimum Active Duty service requirements, as applicable by law, and were discharged under conditions other than dishonorable.

Members of the reserve components of the armed forces who die while on Active Duty under certain circumstances or who die while on training duty are also eligible for burial, as are Servicemembers and former Servicemembers who were eligible for retired pay at the time of their death.

A Veteran’s spouse, surviving spouse, minor children, and, under certain conditions, unmarried adult children with disabilities, may also be eligible for burial. Eligible spouses and children may be buried even if they predecease the Veteran.
A spouse is defined as a person who is legally married to a Veteran. A surviving spouse is defined as a person who was legally married to a Veteran at the time of the Veteran’s death and includes a surviving spouse who had a subsequent remarriage following the death of the Veteran. A non-Veteran spouse of a Veteran whose marriage to the Veteran was dissolved by divorce or annulment issued by an authoritative court is not eligible for burial in a VA national cemetery.

4. I served in the reserve components (Reserves or National Guard). Am I eligible for burial in a VA national cemetery?

Members of the reserve components of the armed forces who die while on active duty under certain circumstances or while performing training duty or who have 20 years of service creditable for retired pay, or were called to Federal active duty under Title 10 and served the full term of service are eligible for burial in a VA national cemetery. A discharge document, such as a DD 214, should indicate Active Duty for purposes other than training, other active duty or executive orders.

5. Can I apply for a Pre-Need Burial determination if I have no supporting documents, such as a DD 214 discharge document?

Yes. Supporting documentation is not required to apply. However, if these documents are available and you send them with your application, VA will be able to process your application faster. If documents are not readily available, VA will attempt to obtain the records necessary to make a determination once we receive your application. If we need additional information to substantiate your claim, VA will contact you and let you know what additional evidence is required. You will have an opportunity to provide additional information.

6. Do I have to fill out separate forms for myself and my spouse?

Yes. Each person requesting a pre-need eligibility determination for burial must complete a separate form so that VA can make and record individual eligibility determinations.

A spouse is defined as a person who is legally married to a Veteran. A surviving Spouse is defined as a person who was legally married to a Veteran at the time of the Veteran’s death and includes a surviving spouse who had a subsequent remarriage following the death of the Veteran. A non-Veteran spouse of a Veteran whose marriage to the Veteran was dissolved by divorce or annulment issued by an authoritative court is not eligible for burial in a VA national cemetery.

7. What happens if VA makes a favorable pre-need eligibility determination?

If VA determines you are eligible, VA will notify you of our determination and store your pre-need application, supporting documentation, and the decision letter for use at your time of need. We encourage you to keep our decision letter and other information we
8. What happens if VA determines I am ineligible for burial in a VA national cemetery?

VA will issue you a written denial decision letter explaining the reasons or basis of the denial. If you do not agree with our decision denying your pre-need request, you have the right to appeal the decision. If you wish to appeal, you have one year from the date of the pre-need decision letter to file a notice of disagreement. If you do not file a notice of disagreement within one year, the decision will become final. You can submit additional evidence to support a claim whether or not you choose to appeal the pre-need decision. The VA Form 4107, *Your Rights to Appeal Our Decision* will be provided; it explains your right to appeal and how to submit additional evidence. For more information visit: [http://www.va.gov/opa/publications/benefits_book/benefits_chap14.asp](http://www.va.gov/opa/publications/benefits_book/benefits_chap14.asp)

9. If I submit an application for a pre-need eligibility determination, am I obligated to be buried in a VA national cemetery?

No. Submitting a VA pre-need application and being found eligible does not obligate you to be buried in any national cemetery at your time of need. If your next of kin making final arrangements submits a burial request on your behalf, VA will locate your pre-need decision letter and validate the determination at your time of need.

10. Can I reserve a gravesite in a VA national cemetery?

No. Applicants may indicate a *preference* for a VA national cemetery on the application form, but a pre-need determination of eligibility does not guarantee burial in a specific VA national cemetery or a specific gravesite. VA assigns gravesites in cemeteries with available space once death has occurred and the burial is scheduled. At the time of need VA will ask those making arrangement for you which VA national cemetery is to be your final resting place so making your preference known is helpful in fulfilling you final wishes.

11. If VA determines I’m eligible, what happens at my time of need?

At your time of need, your next-of-kin, funeral home or other representative responsible for making your final arrangements should contact the National Cemetery Scheduling Office at (800) 535-1117 to request burial. VA will locate your pre-need decision letter and validate our determination. Because laws and personal circumstances change, VA will validate the pre-need decision using the laws in effect at the time VA receives the burial request. We will also check for any bars to receipt of the burial benefit.

12. What is a bar to a burial benefit?
Although a person may be found eligible for burial, title 38 U.S.C. Section 2411, prohibits VA from memorializing or interring in any VA national cemetery a person found to have committed a capital crime or a serious sex offense, under Federal or State law. VA will determine whether any bars to receipt of the burial benefit exists when we receive a burial request.

13. Do I need to provide my email address and other information?

No. Providing your email address is optional. However, if you provide it, VA intends to use your email address to communicate information and updates pertaining to Veteran benefits and programs that may be beneficial to you.

14. If my pre-need application was denied, may my family member, next of kin or personal representative make an application for my burial in a VA national cemetery anyway?

Yes. Anyone can apply for your burial in a VA national cemetery even if a pre-need burial eligibility application was denied. Laws and personal circumstances may change eligibility determinations made at an earlier time. There is no requirement to apply for a pre-need burial determination to in order to request burial at time of need. VA will make final determination at the time of need.

15. How can I get more information about VA memorial and burial benefits?

You can obtain information on VA burial benefits from a local national cemetery, by calling VA regional offices toll-free at (800) 827-1000, or from the National Cemetery Administration website at www.cem.va.gov.

SPECIFIC INFORMATION

16. What burial benefits does VA provide?

Burial benefits include a gravesite in any of VA’s open national cemeteries, the opening and closing of the grave, a government grave liner, a government headstone or marker, and perpetual care of the grave, all at no cost to the family. Additional information can be found at www.cem.va.gov/cem/burial_benefits/index.asp.

17. Do I need to apply for pre-need determination of eligibility for my children?

If a Veteran has been determined to be eligible for burial in a VA national cemetery, his/her children are eligible if unmarried and under the age of 21 or if unmarried and enrolled full-time in an approved educational institution and under the age of 23. VA will process any application it receives, but because most children are expected to reach an
age where their eligibility expires, VA does not recommend submitting a pre-need burial application for most children.

18. **Does a favorable VA pre-need eligibility determination make me eligible for burial in a State Veterans Cemetery?**

No. VA pre-need burial eligibility determinations only apply to burial in VA national cemeteries. Each State or Tribal Veterans cemetery that has a pre-need program makes their own burial determinations and may impose additional residency requirements. Please contact the specific State Veterans cemetery for eligibility requirements and opportunities to apply for burial eligibility in advance of need. A list of State Veterans’ cemeteries is available at [http://www.cem.va.gov/cem/cems/listcem.asp](http://www.cem.va.gov/cem/cems/listcem.asp). Your VA application for a pre-need determination of eligibility does not preclude you from also applying for pre-need determination from a State or Tribal Veterans cemetery.

19. **Does a favorable VA pre-need eligibility determination qualify me for burial or inurnment at Arlington National Cemetery or the United States Soldiers and Airmen’s Home National Cemetery?**

No. VA pre-need burial eligibility determinations only apply to burial in VA national cemeteries. The Department of the Army has jurisdiction over Arlington National Cemetery and the United States Soldiers and Airmen’s Home National Cemetery and the Army has different eligibility requirements for burial in both cemeteries. To obtain information about either Army cemetery call (877) 907-8585.

20. **If VA determines that I am eligible for burial in a VA National Cemetery, does that also entitle me to receive a government headstone or marker?**

For Veterans who are eligible for burial at a VA national cemetery but choose to be buried at a private or local government cemetery, VA will provide a Government-furnished headstone or marker at no cost upon receipt of VA Form 40-1330, Claim for Standard Government Headstone or Marker to mark the grave of a deceased Veteran.

*Non-Veterans are not eligible to receive a Government-furnished headstone or marker nor have their dates of birth or death inscribed on the Veterans marker (at Government expense) when the Veteran is buried at a private or local government cemetery.*

21. **I plan to be buried in a private cemetery and all I want is a government headstone. Can I use the Pre-Need burial form to determine if I’m eligible for a government headstone or marker?**

Yes. We encourage you to submit a completed VA Form 40-10007, Application for Pre-Need Determination of Eligibility for Burial in a VA National Cemetery even if you are only interested in receiving a Government-furnished headstone or marker. VA will maintain your pre-need application, supporting documentation, and decision letter in an electronic information system.
At your time of need, your family member or individual responsible for the disposition of your remains must submit a VA Form 40-1330, *Claim for Standard Government Headstone or Marker*. They should write in box 27 entitled “REMARKS” on VA Form 40-1330 “decedent has a VA pre-need decision letter”.

22. **Should Active Duty Servicemembers apply for a pre-need determination of eligibility for burial in a VA national cemetery?**

VA is authorized to inter Servicemembers who die on Active Duty in our cemeteries. Therefore, VA does not recommend that Servicemembers or their spouses apply for a pre-need determination of eligibility for burial until the Servicemember completes a period of service on Active Duty (other than training,) and is discharged from military service.

If you need to arrange burial for an Active Duty Servicemember or his or her dependent, you should contact a local funeral home or the National Cemetery Scheduling Office at (800) 535-1117. VA will expeditiously handle those time of need requests.

**SECTION III – SIGNING AUTHORITY**

23. **Who may sign the VA Form 40-10007?**

Only the person applying for a pre-need determination may sign the form. If that person is under 18 years of age, mentally incompetent, or physically unable to sign the form, however, an individual with a relationship to the applicant, such as a spouse, parent, or court-appointed representative, may sign the form. Follow the instructions for completing VA Form 40-10007, Item 33b. In such cases, in addition to submitting VA Form 40-10007, the individual will also need to submit supporting documentation regarding (1) the applicant’s incapacity or physical inability and (2) the relationship between the individual and the applicant.

24. **Who may assist with the completion and submission of the VA Form 40-10007?**

Only VA-accredited attorneys, claims agents, and Veterans Service Organization representatives may assist with the completion and submission of the VA Form 40-10007 for a pre-need determination of eligibility for burial. Individuals not accredited by VA are prohibited by law from representing the Veteran or family member on such a claim.

25. **How do I become accredited to assist in completing VA Form 40-1007?**
If a VA-accredited attorney, claims agent, or Veterans Service Organization representative wishes to assist an applicant on a pre-need burial request, he or she should submit a VA Form 21-22 or VA Form 21-22a, if one is not already on file with VA. An attorney or agent must submit a fee agreement regarding the representation to VA.

There is, however, a one-time-only exception that permits a non-accredited individual to assist on one particular claim. Such assistance must be without cost to the claimant and is otherwise subject to the laws governing representation. See 38 C.F.R. § 14.630. If an individual wishes to assist with a claim for pre-need burial determination pursuant to the one-time-only exception, he or she must submit a VA Form 21-22a and identify that he or she is providing services under section 14.630.

For more information on how to apply for accreditation, please see http://www.va.gov/ogc/accreditation.asp. A list of VA-accredited agents, attorneys, and service organizations, is maintained at http://www.va.gov/ogc/apps/accreditation/index.asp.

26. I am a Veteran and a local funeral home is advertising that it can help me complete the VA Form 40-10007 for a low cost. Should I take that deal?

No, you should never pay someone to fill out the VA Form 40-10007, and you should be cautious about paying for other services that may be related to requesting a pre-need burial determination. If you would like help with filing your request for a pre-need burial determination, there are VA-accredited practitioners available who may be able to present your pre-need burial claim. With regard to costs, a representative of a Veterans Service Organization may never charge a VA claimant for services in filing a claim. An accredited attorney or claims agent may generally charge claimants a fee only after an agency of original jurisdiction (e.g., a VA regional office) has issued a decision on a claim, a notice of disagreement has been filed, and the attorney or agent has filed a power of attorney and a fee agreement with VA. A list of VA-accredited agents, attorneys, and service organizations, is maintained at http://www.va.gov/ogc/apps/accreditation/index.asp.

27. I am a funeral home director or an elder care provider, and I want to be accredited by VA in order to help individuals complete the VA Form 40-10007. What should I know before submitting my application for VA-accreditation?

You should know that being a VA-accredited practitioner and being involved in a law-related business creates a heightened potential for ethical conflicts and violations of VA’s standards of conduct. A law-related business is one that provides non-legal services that are related to matters on which the practitioner provides legal services. Your law-related business creates a potential conflict of interest, and you will be required to obtain informed consent before entering into law-related business transactions with VA claimants. For more information, see MODEL RULES OF PROFESSIONAL CONDUCT R. 1.7, 1.8, and 5.7 (AM. BAR ASS’N 2016), available at
You should know that you will not be able to enter into a law-related business transaction with a VA claimant unless specific safeguards are provided, including (1) full disclosure of the material and reasonably foreseeable ways that the transaction could have adverse effects on the interests of that claimant, and (2) the provision of written advice of the desirability of seeking the advice of independent legal counsel on the transaction. It is imperative that the claimant understand the risk that you will structure the transaction or give legal advice in a way that favors your interests at the expense of the claimant. For more information, see MODEL RULES 1.8, cmts. [1] and [3], and 1.7, cmt. [18].

You should also be aware that, if you are operating your law-related business in a manner not readily distinguishable from your VA benefits representation, both the business and the representation must be in compliance with VA’s standards of conduct. This means that any unlawful or unethical conduct with regard to the law-related business would be considered a violation of VA’s standards of conduct. Moreover, even if your business and representation are distinguishable (for example, through separate entities), you must ensure that the claimant understands that the business is not a legal service and that the protections of a client-lawyer relationship do not apply. If this is not communicated clearly to the claimant, then the law-related business will be subject to VA’s standards of conduct. For more information, see MODEL RULE 5.7 and 38 C.F.R. § 14.632(c)(10)-(11), (d).

Finally, you should be cautious that your advertising of any VA benefits representation services is presented in an ethical manner, and know that disclosing information relating to representation is strictly prohibited absent specific circumstances. For more information, see MODEL RULES 1.6, 7.1 thru 7.3, and 38 C.F.R. § 14.632(c)(3), (8), (10), (11) and (d).