

OFFICE OF THE CITY ATTORNEY

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Legal Opinion 2022-015

TO: Angela Simonson, Kay James, Dale Bickell, Leigh Griffing, Department Mayor's Office

CC: Department Attorney

FROM: Jim Nugent, City Attorney

DATE August 19, 2022

RE: Designation of person to receive decedent's warrants.

FACTS:

This legal opinion is intended to guide appropriate city staffs with respect to payment of city warrants and paychecks owed to a decedent employee.

ISSUE(S):

Does Montana state law provide any guidance as to what a municipal government entity is to do with warrants and paychecks owed to a decedent?

CONCLUSION(S):

Montana state law provides that a person employed by a municipality may file with the city a designation of the person who is entitled on the death of the employee to receive all warrants or paychecks that would have been payable to decedent. Other monies owed by the city to decedent would go to decedent's estate.

LEGAL DISCUSSION:

Pursuant to section 7-4-4211 MCA of Montana municipal law; a person employed by a municipality may file with the city a designation of a person entitled on the death of the employee to receive all warrants or paychecks that would have been payable to the decedent. Section 7-4-4211 MCA states as follows:

7-4-4211. Designation of person to receive decedent's warrants or paychecks -- reissuance. A person employed by a municipality may file with the appointing power a designation of a person who, notwithstanding any other

provision of law, is entitled, on the death of the employee, to receive all warrants or paychecks that would have been payable to the decedent. The employee may change the designation from time to time. A designated person shall claim the warrants or paychecks from the city treasurer or town clerk, whichever is applicable, and on sufficient proof of identity, the city treasurer or town clerk shall reissue the warrant or paycheck in the name of the designated person and deliver the warrant or paycheck to the designated person.

Montana state law provides a similar law for state employees pursuant to section 2-18-412 MCA.

Any other monies owed to decedent by the city would pass to the decedent's estate.

CONCLUSION(S):

Montana state law provides that a person employed by a municipality may file with the city a designation of the person who is entitled on the death of the employee to receive all warrants or paychecks that would have been payable to decedent. Other monies owed by the city to decedent would go to decedent's estate.

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/s/ Jim Nugent

Jim Nugent, City Attorney

JN:jb