

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2008-24752
Issue No: 5005
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 23, 2009
Barry County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on July 23, 2009. The decedent's daughter, [REDACTED], was present and testified at the hearing.

ISSUE

Did the department properly deny the claimant's State Emergency Relief (SER) application for assistance with burial expenses for her mother in June, 2008?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. [REDACTED] applied for SER burial assistance for her mother [REDACTED] [REDACTED] on June 25, 2008. (Department Exhibit 1 – 2).

2. The claimant indicated on the application that her mother's death had occurred on June 11, 2008 and that her burial had occurred on June 14, 2008. (Department Exhibit 2).

3. The claimant's application was denied because the application was submitted more than 10 days from the burial date.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (DHS or department) policies are found in the State Emergency Relief Manual (SER).

Department policy states:

BURIALS

DEPARTMENT POLICY

SER assists with burial when the decedent's estate, mandatory copays, etc. are not sufficient to pay for:

- burial, or
- cremation, or
- costs associated with donation of a body to a medical school.

The decedent's remains **MUST** be in Michigan. Transportation or other charges to bring a decedent back to Michigan are not covered by SER. ERM, Item 306, p. 1.

Staff Responsibilities

Staff must clearly explain SER burial eligibility requirements and program payment limits to any person making an inquiry. This includes the requirement that the application for SER must be made within 10 calendar days of burial, cremation or donation. ERM, Item 306, p. 1.

Application

An application for SER burial must be made no later than 10 calendar days after the burial, cremation or donation takes place. ERM, Item 306, p. 1.

Who May Apply

Only the following people may apply for SER burial benefits as authorized representatives. In other situations, decedents are unclaimed bodies.

- . Any relative - including minors or their authorized representative
- . Person named in decedent's will to arrange burial
- . Special administrator appointed by probate court
- . Legal guardian who was appointed by probate court
- . Person who had durable power of attorney at the time of death
- . Funeral director with written authorization provided by a relative who is:
 - .. incapable due to illness, or
 - .. unable due to location
- . For unclaimed bodies, the county medical examiner or designated county official. See "Unclaimed Bodies" below. ERM, Item 306, p. 1.

The facts, in this case, are uncontested. Both the claimant and the department agree that the decedent's daughter applied for burial assistance for her mother on June 25, 2008. The decedent passed on June 11, 2008 and her burial was on June 14, 2008. This hearing decision hinges on whether department policy required the burial application to be submitted within ten **calendar** days of the burial or ten **working** days of the burial.

The applicable policy in this case, ERM 306, changed language on January 1, 2008. Prior to January 1, 2008, the language stated that the SER burial application deadline was ten working days from the date of burial. After January 1, 2008, the language was changed to state the deadline for application was ten calendar days from the date of burial.

When applying these policy changes to the case at hand, it is clear the January 1, 2008, policy change must be used in this case, as the claimant applied for assistance on June 25, 2008. Thus, the claimant was required to submit the application within ten calendar days of the burial. The claimant did not submit the application within ten calendar days of the burial, which would have been June 24, 2008. Therefore, the department properly denied her SER application as untimely, according to the department policy in effect at the time.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly denied the assistance application for SER burial assistance in June, 2008, as it was untimely.

Accordingly, the department's actions are UPHELD. SO ORDERED.

/s/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 10, 2009

Date Mailed: September 16, 2009

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

SLK [REDACTED]

cc:

[REDACTED]