

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: 2009-22790
Issue No: 5005
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 2, 2010
Clinton County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 conducted from Lansing, Michigan on June 2, 2010.

ISSUE

Whether the Department properly denied Claimant's application for State Emergency Relief (SER) benefits?

FINDINGS OF FACT

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

(1) On March 24, 2009, [REDACTED], on behalf of his deceased brother - [REDACTED], completed and filed an application for State Emergency Relief (SER), DHS-1514, requesting [REDACTED] for burial services. The application states that [REDACTED] had [REDACTED] in a savings account, an unspecified amount of life insurance and [REDACTED] in SSI income "after

paying nursing home”. In response to the question of “Is there a contribution from family and/or friends, neither the yes or no box was checked, but [REDACTED] was listed as the amount. (Exhibits 9-13)

(2) On March 24, 2009, the Department received a savings account statement for [REDACTED] which showed a balance of [REDACTED] with - [REDACTED] written underneath it for a total of [REDACTED]. (Exhibit 14)

(3) The bill for the funeral home shows total charges as [REDACTED] – a “DHS Discount” of [REDACTED] for a balance due from buyer of [REDACTED] [REDACTED] paid the [REDACTED]. (Exhibit 15)

(4) On March 30, 2009 Claimant completed and filed an Assistance Application, DHS-1171. (Exhibits 1-8)

(5) On March 31, 2009, the Department ran a SER – Affordability Test which showed Net Countable Income as [REDACTED] and Affordable as “No”. (Exhibit 16)

(6) On March 31, 2009, the Department ran a SER – Burial Test which listed SER Maximum for Requested Services as [REDACTED], the Total Cost for Requested Services as [REDACTED] and a Contribution of [REDACTED]. (Exhibit 17)

(7) On March 31, 2009, the Department mailed Claimant a State Emergency Relief Decision Notice which informed him that his application was denied because – “We are unable to resolve your emergency because your contribution amount is insufficient” and Comments of – “There is not a sufficient contribution to resolve the emergency. (Exhibits 20, 21)

(8) On April 3, 2009, the Department received the Claimant’s hearing request protesting the denial of the SER application. It states as follows – “Please review my request. I am asking for only the DHS portion of [REDACTED]. I paid [REDACTED] and gave the funeral home all of

the money left in [REDACTED] saving account of [REDACTED]. The funeral home is asking for [REDACTED]. Please reconsider my request.”

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).

SER group members must use their available income and cash assets that will help resolve the emergency. The Department will not authorize a SER payment unless it will resolve the emergency. ERM 208, p.1. The SER group must contribute toward the cost of resolving the emergency if SER does not cover the full cost of the service. Other persons or organizations can also contribute funds on behalf of the SER group. Verification that the contribution has been paid must be received before any SER payment can be made. ERM 208, p.3.

State Emergency Relief (SER) assists with burial when the decedent's estate, mandatory co-pays, etc. are not sufficient to pay for:

- Burial.
- Cremation.
- Costs associated with donation of a body to a medical school. ERM 306, p. 1.

Friends and relatives may supplement the SER burial payment in any amount up to \$4,000 for additional services. There must be a signed statement from the friend/relative indicating the amount of their contribution. The contribution does not have to be paid prior to the SER payment authorization. The Department will deny SER if contributions exceed \$4,000 OR

if the total cost of the burial exceeds the SER maximum payment allowed plus the voluntary contribution. ERM 306, p.6. The Department will authorize payment for burial, cremation or donation at the rates charged by the provider up to the maximum payments specified in the table at the end of this item. Payment is made via the DHS-849 only if it will resolve the emergency. ERM 306, p. 6-7.

The total funeral home charge, as listed on the bill, was [REDACTED] which included a crematory fee [REDACTED], an alternative container fee [REDACTED] and a direct cremation fee [REDACTED]. There was also a cash advance charge [REDACTED] and tax [REDACTED] for a grand total of [REDACTED]. The Less Credits and Payments section listed a “DHS Discount” of [REDACTED]. The balance due from buyer was [REDACTED] which [REDACTED] paid. [REDACTED] had not yet given the funeral home the [REDACTED] from Claimant’s savings account. The funeral home apparently orally told [REDACTED] that it wanted a total of [REDACTED] addition to the [REDACTED] paid by [REDACTED] to satisfy the bill. The bill does contain an asterisk at the bottom and states – “pending approval with D.H.S, Failure to get full approval makes contract null and void.”

With the above said, the Department was rightfully confused by the application and funeral bill including the real cost of the services provided by the funeral home, what was a “DHS Discount”, the amount of the voluntary contributions toward the bill, whether the emergency was going to be resolved by its maximum payment, whether Claimant had actually used available cash assets, etc. Based on the testimony and documentation offered at hearing, I find that the Department established that it acted in accordance with policy in denying Claimant’s SER application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy in denying Claimant's SER application.

Accordingly, the Department's SER eligibility determination is AFFIRMED, it is SO ORDERED.

/s/

Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 22, 2010

Date Mailed: June 23, 2010

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 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

SMB/vc

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