

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]
PO BOX 1075
Saugatuck, MI 49453

Reg. No: 2010-50804

Issue No: 5005

[REDACTED] [REDACTED]
Hearing Date:
September 29, 2010
Allegan County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 September 29, 2010. Claimant is deceased. Claimant was represented at the hearing by [REDACTED]

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for State Emergency Relief (SER) for burial?

FINDINGS OF FACT

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

- (1) On July 8, 2010, claimant's representative filed an application for State Emergency Relief for burial.
- (2) The application was filed by claimant's attorney who was appointed representative for the estate of claimant.
- (3) On page 5 of the SER application, the estimated value of the now non-excluded former home of claimant was listed at [REDACTED]
- (4) The asset information was entered into BRIDGES and as a result the application was denied for excess assets. On July 16, 2010, the

department caseworker sent claimant's estate representative a notice that the department denied the decision for excess assets.

- (5) On July 25, 2010, claimant's representative filed a request for a hearing to contest the department's negative action.

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).

State Emergency Relief assists with burial when the decedent's estate, mandatory co-pays, etc. are not sufficient to pay for burial, cremation, or costs associated with donation of the body to a medical school. The decedent's remains must be in Michigan. An application for SER burial must be made no later than 10 calendar days after the date of the burial, cremation, or donation takes place (ERM 306, p. 8.).

Claimant deceased on June 13, 2010. Burial/cremation was performed June 30, 2010. The department is to combine the decedent's and responsible relative's cash and non-cash assets to determine the asset co-payment. Allow a [REDACTED] cash asset exclusion if there is a surviving group member. Allow a [REDACTED] non-cash asset exclusion if there is one surviving group member, [REDACTED] if there are 2 or more. If a surviving group member is a current recipient of FIP, SDA, SSI, MA or FAP there is an automatic eligibility on basis of non-cash assets only. A decedent who is the only SER group member does not qualify for any asset exclusion. ERM, Item 306, p. 4.

The department is required to deny the application if the total countable value of cash and non-assets prior to exclusion exceeds the SER payment maximum for burials. When assets exceed the payment maximum, the group cannot designate any of the assets as a supplement. When there is no surviving group member, assets owned by the decedent at the time of death constitute an estate. For a group of 1, there is no automatic asset eligibility based on the receipt of MA, FAP, SSI, etc. The estate includes all the decedent's cash and non-cash assets such as a form of homestead, auto, bank account, etc. The probate court determines the value of a deceased person's estate and the amount available to meet burial expenses. Relatives or others must file a petition to start probate court proceedings. The department is to determine the SER burial eligibility of a deceased person within an estate as follows:

- Deny the application if the value of the decedent's estate is projected to equal or exceed the SER burial payment.
 - Estimates from expert sources, car dealers, tax statements, etc. maybe necessary to determine total estate value. ERM, Item 306, p. 5.

In the instant case, the state equalized value of claimant's former home is ██████ in 2009, and ██████ in 2010. Therefore, the department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined that the value of claimant's countable assets was higher than allowed for burial services under the SER program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it denied claimant's personal representative's application for burial expenses because claimant's assets exceeded the asset limit established by policy for SER eligibility.

Accordingly, the department's decision is AFFIRMED.

Landis /s/

Y. Lain
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/19/2010

Date Mailed: 10/19/2010

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 90 days of the filing of the original request.

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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.

LYL/alc

cc:

