

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20109346
Issue No.: 5005
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 26, 2010
Livingston County DHS

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant/Representative's request for a hearing. After due notice, a hearing was held in Howell, Michigan on Thursday, August 26, 2010. The Claimant is deceased. The decedent's authorized representative, attorney [REDACTED], appeared, along with [REDACTED]. [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

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

FINDINGS OF FACT

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

1. The Claimant/Representative submitted a SER application seeking burial services on August 27, 2009. (Exhibit 1)
2. On September 17, 2009, the Department sent a Verification Checklist to the Claimant/Representative seeking information regarding the Claimant/decedent's assets. (Exhibits, 2, 3)
3. The Verifications were due on September 24, 2010. (Exhibit 2)

4. On September 22, 2009, the Claimant/Representative called the Department and left a message seeking clarification regarding the Verification(s) being sought.
5. The message was not returned.
6. On October 20, 2009, the SER application was denied due to the failure to submit the requested verifications. (Exhibits 4, 5)
7. On October 27, 2009, the Department received the Claimant/Representative's timely written Request for Hearing. (Exhibit 6)

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' (formerly known as the Family Independence Agency) policies are found in the State Emergency Relief Manual ("ERM").

State Emergency Relief ("SER") assists with burial when the decedent's estate, mandatory copays, etc. are not sufficient to pay for burial, cremation, or costs associated with donation of a body to a medical school. ERM 306 The following people may apply for SER burial benefits as authorized representatives:

- Any relative
- Person named in the decedent's will to arrange burial
- Special Administrator appointed by the Probate Court
- Legal Guardian who was appointed by the 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

ERM 306 Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. BAM 105 Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 Client's are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. BAM 130 If the client cannot provide the verification despite a reasonable effort, the time limit should be extended at least once. BAM 130 A negative action notice is sent when the client refuses to provide the requested verifications or the time period has lapsed for the request and the client has not made a reasonable attempt to provide it. BAM 130

In the record presented, the Public Administrator submitted a SER application seeking burial benefits. The Department sent a verification checklist to the Claimant/Representative seeking information regarding the decedent's assets. The verification was due by September 24, 2009. On September 22, 2009, the Claimant/Representative left a voicemail message with the Department requesting clarification regarding what documentation was required. The message was not returned. On October 20, 2009, the Department denied the SER application based upon the failure to submit the requested asset verifications. There was no evidence that the Claimant/Representative had refused to provide the information or had not made reasonable attempts to secure it. Instead, the Claimant/Representative sought assistance by contacting the Department for clarification. Under these facts, the Department's determination is not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds the Department's determination is not upheld.

Accordingly, it is ORDERED:

1. The Department's denial of the SER application is not upheld.
2. The Department shall re-open and process the SER application in accordance with Department policy.
3. The Department shall notify the parties of the determination in accordance with Department policy.
4. The Department shall supplement for lost benefits (if any) that the Claimant/Representative was entitled to receive if otherwise eligible and qualified.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 8/30/2010

Date Mailed: 8/30/2010

2010-9346/CMM

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.

CMM/jlg

cc:

