

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: 2010-13401
Issue No: 5005
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 5, 2010
St. Joseph County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on December 1, 2009. After due notice, a telephone hearing was held on Thursday, August 5, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's State Emergency Relief (SER) eligibility?

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 applied for SER benefits on November 23, 2009, requesting assistance with burial expenses. Department Exhibit 2.
- (2) The Claimant notified the Department that the date of burial was October 10, 2009. Department Exhibit 2.

(3) On November 23, 2009, the Department notified the Claimant that it had denied his application for SER benefits. Department Exhibit 1.

(4) The Department received the Claimant's request for a hearing on December 1, 2009, protesting the denial of his SER application.

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. Family Independence Agency (FIA or agency) policies are found in the State Emergency Relief Manual (ERM).

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.

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

The Claimant applied for SER benefits on November 23, 2009, requesting assistance with burial expenses for his spouse. The Claimant reported to the Department that the date of death was [REDACTED], and that the burial date was [REDACTED].

The Claimant testified that he is currently making payments on the burial expenses, but that the death of his spouse was a financial hardship that makes it difficult for him to pay his

debt. The Claimant testified that the Department did not notify him of the deadline to apply for SER benefits for burial expenses.

However, the claimant's grievance centers on dissatisfaction with the department's current policy. The claimant's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

Since the Claimant submitted his application more than 10 days after either the burial or cremation of his wife, the Department acted in accordance with policy when it denied his SER application.

DECISION AND ORDER

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

The Department's SER eligibility determination is AFFIRMED. It is SO ORDERED.

/s/ _____
Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 13, 2010

Date Mailed: August 13, 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.

KS/vc

cc:

