

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: 2010-30139
Issue No: 5005
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 19, 2010
Eaton 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 January 20, 2010. After due notice, a telephone hearing was held on Thursday, August 19, 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 for burial service on October 23, 2009.
- (2) The Claimant receives monthly earned income in the gross monthly amount of [REDACTED]

(3) The Department denied the Claimant's application on November 19, 2009, because the client contribution amount, the death benefit amount, and the funeral contract amount is greater than the total need amount.

(4) The Department received the Claimant's request for an appeal on January 20, 2010, protesting the denial of her 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 (SER).

The Department's representative testified that he was unable to explain how the Claimant's eligibility was determined, but that he believed it to be correct because a supervisor reviewed the Claimant's case file before the Claimant's application was denied. The Department's representative testified that he entered the Claimant's income into the Department's computer system, which determined that the Claimant was not eligible for SER benefits.

The Department's representative requested that the Department explain its formula for determining SER eligibility, which the Department was unable to provide.

Based on the evidence and testimony available at the hearing, the Department has failed to establish that it properly determined the Claimant's eligibility for SER benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has not established that it properly determined the Claimant's eligibility for SER benefits.

Accordingly, the Department's SER eligibility determination is REVERSED. It is further ORDERED that the Department shall:

1. Initiate a determination of the Claimant's eligibility for SER benefits for burial service.
2. Provide the Claimant with written notification of the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

/s/

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

Date Signed: August 27, 2010

Date Mailed: August 30, 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.

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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:

