

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: 201052722
Issue No: 5005
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 20, 2010
Monroe 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 August 9, 2010. After due notice, a telephone hearing was held on Wednesday, October 20, 2010. The Claimant was represented during the hearing by her authorized hearing representative.

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 July 6, 2010. Department Exhibit 1.
2. The Claimant's spouse passed on June 2, 2010, and her body was cremated on June 8, 2010. Department Exhibit 2.
3. On July 21, 2010, the Department denied the Claimant's SER application.
4. The Department received the Claimant's request for a hearing on August 9, 2010, 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 copays, 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 July 6, 2010, requesting assistance with cremation expenses. The Claimant's spouse passed on June 2, 2010, and her body was cremated on June 8, 2010. On July 21, 2010, the Department denied the Claimant's SER application, because it has been submitted more than 10 days after the cremation had taken place.

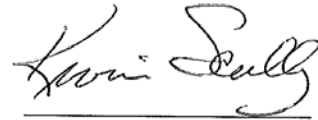
The Claimant's representative argued that the Claimant had no way of knowing about the 10 day time limit, and that he had relied on the guidance of the funeral home director.

Although the Claimant may have been misled by the advice of his funeral home director, the Department is required to determine eligibility for benefits by its policy guidelines. Furthermore, this administrative law judge does not have the authority to create exceptions or overrule Department policy. Since the SER application was submitted to the Department more than 10 days after the cremation took place, the Department properly denied the Claimant's SER application as required by Emergency Relief Manual Item 306.

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.



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

Date Signed: October 29, 2010

Date Mailed: October 29, 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/alc

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