

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.: 2010-53454
Issue Nos.: 2006, 5000
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 22, 2010
DHS County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 November 22, 2010. Claimant, now deceased, was represented by her spouse, [REDACTED], who appeared and testified. [REDACTED], appeared on behalf of the Department of Human Services (DHS or Department).

ISSUES

1. Was the Department correct in denying Claimant's Medical Assistance (MA/Medicaid) application for failing to return verification?
2. Is Claimant entitled to State Emergency Relief (SER) for burial expense?

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 October 23, 2009, Claimant applied for Medical Assistance, which application was completed by her spouse, [REDACTED].
2. A verification checklist requesting verification of assets was sent to [REDACTED] on March 27, 2010, with an April 8, 2010, due date.
3. On May 11, 2010, Claimant's MA application was denied due to failure to verify assets.
4. Claimant died on October 16, 2009.

5. Claimant's spouse concedes that he did not specifically request SER benefits for funeral expenses, and the Department has no record of receiving an application for SER benefits.
6. Claimant's spouse paid for funeral expenses with his credit card.
7. Claimant's spouse requested a hearing on June 14, 2010, contesting the denial of the Medicaid application and requesting SER burial benefits.

CONCLUSIONS OF LAW

Medical Assistance

The MA program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Clients must cooperate with the local DHS office in obtaining verification for determining initial and ongoing eligibility. BAM 130, p. 1. The questionable information might be from the client or a third party. *Id.* The Department can use documents, collateral contacts or home calls to verify information. *Id.* The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. BAM 130, p.5; BEM 702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. BAM 130, p. 5.

In the present case, Claimant's spouse credibly testified that he submitted verification of assets prior to the deadline. Claimant's spouse recalls taking the verifying documents, specifically the bank records requested by the Department, to the Department about a week after he received the verification checklist. The Department concedes that Claimant's file was reassigned to different workers, thus allowing for a loss of the documents. This Administrative Law Judge cannot find that Claimant's spouse failed to cooperate. Therefore, the Department was incorrect in denying Claimant's application for failing to return verification. BAM 130.

State Emergency Relief

The 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. The Department's policies are found in the State Emergency Relief Manual (ERM).

SER assists with burial when the decedent's estate, mandatory co-pays, and so on, are not sufficient to pay for burial. An application for SER burial must be made no later than 10 calendar days after the date of the burial. ERM 306.

The regulations governing hearing and appeals for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code. MAC R 400.901-.951. MAC R 400.903 reads in part:

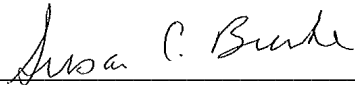
An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied or is not acted upon with reasonable promptness . . .

In the present case, Claimant filed a request for hearing. The Department, however, has not currently taken a negative action or failed to act in a timely manner regarding SER. Claimant's spouse testified that he did not specifically apply for SER. Rather, he relied on information received from a source other than the Department that the specific application was not necessary.

DECISION AND ORDER

The Department's decision to deny Claimant's MA application for failing to return verification was incorrect and, therefore, is REVERSED. It is ORDERED that Claimant's application shall be reinstated and reprocessed from the date of the original application date, October 23, 2009.

The issue regarding State Emergency Relief is DISMISSED pursuant to MAC R 400.903(1) and BAM 600 as Claimant did not apply for SER.



Susan C. Burke
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 1, 2010

Date Mailed: December 1, 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.

SCB/pf

cc:

