

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.: 2010-54230
Issue No.: 5005
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: December 6, 2010
Oakland County DHS (4)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on December 6, 2010. The Claimant's Authorized Representative [REDACTED], appeared and testified on her behalf. The Claimant is deceased. [REDACTED], Assistant Payments Supervisor appeared on behalf of the Department.

ISSUE

Was the Department correct in denying Claimant's State Emergency Relief application for burial assistance?

FINDINGS OF FACT

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

1. Claimant applied for SER benefits on April 29, 2010, requesting burial services.
2. Claimant's mother was buried April 17, 2010.
3. The Claimant's family was advised by the funeral director that they had 10 business days to apply for SER benefits for burial. The claimant relied upon the funeral home's information.
4. The department correctly denied the claimant's application for SER burial relief as it was filed late. The department correctly followed its policy set

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forth in ERM 306 which requires that all applications be filed within 10 calendar days of burial.

5. Claimant requested a hearing on July 31, 2010 protesting the denial of the application for SER burial assistance.

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 (SER).

State Emergency Relief (SER) assists with burial when the decedent's estate, or when mandatory copays, etc. are not sufficient to pay for: • Burial. • Cremation. • Costs associated with donation of a body to a medical school. The decedent's remains **must** be in Michigan. **Staff Responsibilities;** Staff must clearly explain SER burial eligibility requirements and program payment limits to any person making an inquiry. This includes the requirement that the application for SER must be made within 10 calendar days of burial, cremation or donation.

Application 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.

In the present case, Claimant applied for SER for burial services on April 29, 2010, which was 12 calendar days after the burial. Therefore, the Department's denial of State Emergency Relief due to the late filing of the application is correct and must be affirmed. Claimant testified at the hearing that she and her family were misled by the funeral director who advised her in writing, that she had 10 business days within which to file the application. In addition, she was in the period of grief and loss, and did not file the application sooner. This Administrative Law Judge sympathizes with the Claimant's circumstances and is sympathetic to her situation but can only review whether the Department acted in accordance with Department policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department was correct in the denial of SER benefits, and it is ORDERED that the Department's decision in this regard be and is hereby AFFIRMED.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/7/2010

Date Mailed: 12/7/2010

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.

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.

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