

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

[REDACTED]

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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 [REDACTED]. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly deny the claimant's State Emergency Relief (SER) application?

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 assistance with burial expenses on [REDACTED]. (Department Exhibit C)
2. The claimant telephoned the department three times on [REDACTED] light of her husband's death. (Department Exhibit A)
3. On [REDACTED], the claimant was mailed a denial of her SER application.
4. The claimant submitted a hearing request on [REDACTED].

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 (DHS or department) policies are found in the State Emergency Relief Manual (SER).

The claimant applied for assistance with burial expenses on [REDACTED]. The claimant's husband passed away on [REDACTED] and was buried on [REDACTED].

Department policy indicates that an application for burial must be made no later than 10 calendar days after the date of burial. ERM 306. In this case, the claimant's husband was buried on [REDACTED], so the ten calendar days expired on [REDACTED].

However, in this case, the claimant called the department to inquire about benefits in light of her husband's death on three separate occasions—[REDACTED] and [REDACTED]. The department staff member testified that the claimant did call on these dates and she took meticulous notes on the calls. The department staff member was unable to even retrieve the messages until [REDACTED]. As the department representative testified, this was due to a protected day (day when no calls are taken) on [REDACTED].

ERM 306 also states that staff must clearly explain the 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.

In this case, the claimant did place her first telephone call inquiry to the department on [REDACTED] within the ten day time period. It is through no fault of the claimant (or department, for that matter) that the department staff member was unable to provide her the required information until after the ten day period lapsed. As the department staff member testified, the protected day, holidays and weekend days prevented the claimant from receiving any information on burial services within the required time frames. Therefore, the department was unable to provide the claimant with the required information to allow her to get her application in timely.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly denied the claimant's SER application.

Accordingly, the department is REVERSED. The department shall consider the claimant's SER application for burial assistance timely and process it to determine eligibility.

SO ORDERED.

/s/ _____
[Redacted Signature]

Date Signed: _____

Date Mailed: _____

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.

[Redacted]