

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-21556
Issue No: 5005

[REDACTED]

[REDACTED]

Mecosta County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 received on March 1, 2011. After due notice, a telephone hearing was held on May 24, 2011. [REDACTED], the deceased's sister, personally appeared and provided testimony.

ISSUE

Did the department properly deny Claimant's State Emergency Relief (SER) 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 State Emergency Relief (SER) assistance on February 18, 2011 for assistance in the burial/cremation expenses for her sister, [REDACTED]. (Department Exhibit 3 - 8).
2. Ms. Soter was cremated on February 7, 2011. (Department Exhibit 10)
3. The department mailed a SER Decision Notice (DHS-1419) on February 22, 2011, denying the claimant's request for burial assistance because the SER application was filed more than 10 days after the date of burial/cremation.
4. The claimant submitted a hearing request on March 1, 2011.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1). An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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).

Department policy states:

State Emergency Relief (SER) assists with burial when the decedent's estate, mandatory co-pays, etc. are not sufficient to pay for:

- Burial
- Cremation
- Costs associated with donation of a body to a medical school.

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. 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.

In this case, the claimant is disputing the denial of an SER application for assistance with burial expenses. Department policy requires the client to submit the SER application within 10 calendar days after the burial, cremation or donation. The claimant does not dispute that the application was submitted on February 18, 2011 and that the cremation occurred on February 7, 2011. Thus, the claimant submitted the SER application on the 11th day after the cremation took place.

However, the claimant testified that she called the department and requested an SER application on February 2, 2011. This is confirmed by the department. The claimant testified that the same day she requested the application, her husband went into the

hospital (February 2, 2011) and was later transferred to a hospital in [REDACTED] on February 6, 2011. The claimant's husband passed away on February 8, 2011. This is confirmed by a death certificate provided by the claimant. Thus, it becomes clear that the claimant may not have had the chance to get the application via mail and discover that it was due back to the department within 10 days of her sister's cremation. It is also unclear if the claimant was specifically informed that the application needed to be submitted within 10 days of burial/cremation when she requested the application via telephone from the department.

As the cremation requirements may not have been clearly explained and presented to the claimant, the undersigned finds that the department has improperly denied the SER application.

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 for burial assistance.

Accordingly, the department's determination is REVERSED. The department shall process the claimant's SER application and issue a determination on the client's eligibility for burial assistance.

It is SO ORDERED.

/s/ _____
Suzanne Morris
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 6/22/11

Date Mailed: 6/22/11

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 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.

SLM/ds

■ [REDACTED]