

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

IN THE MATTER OF:



Reg. No.: 2011-27746
Issue No.: 5005
Case No.: [REDACTED]
Hearing Date: June 9, 2011
DHS County: Macomb (50-20)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 conducted from Detroit, Michigan, on Thursday, June 9, 2011. The Claimant appeared, along with [REDACTED], and testified. [REDACTED] appeared on behalf of the Department of Human Services ("Department").

ISSUE

Whether the Department properly denied the Claimant's request for burial assistance?

FINDINGS OF FACT

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

1. The Claimant submitted a request for burial services on January 25, 2011.
2. The request included the cost for a memorial service.
3. The cost of the burial was \$6,239.40. (Exhibit 1)
4. On January 27, 2011, the Department denied the request because the total cost of the burial exceeded the SER maximum payment allowed plus the voluntary contributions.
5. The Funeral Director contacted the Department stating that he would reduce the cost of the burial to \$4,900.00.

6. The Department verbally notified the Claimant that the \$4,900.00 figure exceeded the SER maximum payment allowed after voluntary contributions.
7. On February 3, 2010, the Funeral Director contacted the Department stating it would reduce the funeral cost to \$4,700.00.
8. The Department did not receive the new statement showing the \$4,700.00 cost.
9. On March 9, 2011, the Department received the Claimant's written request for hearing. (Exhibit 2)

CONCLUSIONS OF LAW

The State Emergency Relief 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 (formerly known as the Family Independence Agency) policies are found in the State Emergency Relief Manual ("ERM").

SER assists with burial when the decedent's estate, mandatory copays, etc. are not sufficient to pay for burial, cremation, or costs associated with donation of a body to a medical school. ERM 306. The following people may apply for SER burial benefits as authorized representatives:

- Any relative
- Person named in the decedent's will to arrange burial
- Special Administrator appointed by the Probate Court
- Legal Guardian who was appointed by the Probate Court
- Person who had durable power of attorney at the time of death
- Funeral director with written authorization provided by a relative who is incapable due to illness or unable due to location

ERM 306. Covered services include goods or services normally provided to bury, cremate, or donate a human body. ERM 306. Friends and relatives may supplement the SER burial payment in any amount up to \$4,000.00 for additional services. ERM 306. There must be a signed statement from the friend/relative indicating the amount of their contribution. ERM 306. The contribution does not have to be paid prior to the SER payment authorization. ERM 306. The SER request is denied if the contributions exceed \$4,000.00 or if the total cost of the burial exceeds the SER maximum payment allowed plus the voluntary contribution. ERM 306. The SER maximum for a burial with a memorial service is \$700.00. ERM 306.


In this case, the Claimant submitted a request for burial services, which included a memorial service, on January 25, 2011. The total cost was \$6,239.40. Although there was not a signed statement from a friend/relative indicating the amount of their contribution, the Department denied the request because the cost exceeded the maximum contribution of \$4,000.00 plus the maximum SER for burial with a memorial service. Subsequently, another statement was provided that reflected a total cost of \$4,900.00 with a maximum contribution of \$4,000.00. This too, exceeded the SER limits. The Funeral Director testified that he communicated with the Department that he would reduce the funeral cost to \$4,700.00; however, the Department did not receive the statement nor was the Director able to establish one had been faxed. Ultimately, under the facts presented, the Department established it acted in accordance with Department policy when it denied the SER burial request.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Department established it acted in accordance with Department policy when it denied the Claimant's SER burial request.

Accordingly, it is ORDERED:

The Department's determination is AFFIRMED.



Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: June 22, 2011

Date Mailed: June 27, 2011

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.

42011-27746/CMM

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.

CMM/pf

cc:

