

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-30824
Issue No.: 5005
Case No.: [REDACTED]
Hearing Date: June 27, 2011
DHS County: Oakland (63-04)

ADMINISTRATIVE LAW JUDGE: Andrea J. Bradley

ORDER OF DISMISSAL

This matter is before the undersigned Administrative Law Judge upon the Claimant's request for a hearing made pursuant to Michigan Compiled Laws 400.9 and Michigan Compiled Laws 400.37, which govern the administrative hearing and appeal process. After due notice, a telephone hearing was held in Detroit, MI, on June 27, 2011. [REDACTED], Claimant-decedent's niece, appeared for the Claimant-decedent, [REDACTED]. [REDACTED] appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly denied Claimant-decedent's representative's request for State Emergency Relief (SER) benefits for burial expenses.

FINDINGS OF FACT

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

1. On [REDACTED], the Claimant passed away.
2. On January 19, 2011, the Claimant-decedent's niece telephoned the DHS office where Claimant-decedent had an open case to obtain information regarding SER burial benefit eligibility.
3. On January 19, 2011, Claimant-decedent's niece received unclear information regarding SER burial eligibility, program payment limits, and timing requirements. Specifically, she was never advised of the ten-day application deadline.

4. On March 30, 2011, Claimant-decedent's niece submitted a SER application for burial payment assistance as an authorized representative for Claimant-decedent.
5. On April 1, 2011, the SER application was denied based on ERM 306, because the application was submitted more than ten days after Claimant-decedent's burial. (Exhibit 1).
6. On April 13, 2011, DHS received the Claimant-decedent's niece's written request for hearing.
7. There is no signed writing in the record evidencing that Claimant-decedent's niece is an Authorized Hearings Representative.

CONCLUSIONS OF LAW

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, 1990. Michigan Administrative Code Rules R 400.7001-400.7049. DHS, formerly known as the Family Independence Agency, policies are found in the State Emergency Relief Manual ("ERM").

SER prevents serious harm to individual and families by assisting with burial expenses when the decedent's estate, mandatory copays, etc. are not sufficient to pay for burial, cremation, or the costs associated with donation of a body to a medical school. ERM 306, p. 1. The decedent is considered the claimant for purposes of SER benefits. An authorized representative (AR) may apply for SER burial benefits on behalf of the claimant-decedent. ERM 306, p. 1. An AR is defined "a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf." BAM 110, p. 7. Any relative, including minors, may apply as an AR for the SER burial benefits. ERM 306, p. 1.

An AR is not, however, the same as an authorized hearings representative (AHR). BAM 110, p. 7. An AHR is defined as:


"the person who stands in for or represents the client in the **hearing process** and has the legal right to do so. This right comes from one of the following sources: (a) written authorization, signed by the client, giving the person authority to act for the client in the hearing process; (b) court appointment as a guardian or conservator; (c) the representative's status as legal parent of a minor child; (d)

the representative's status as attorney at law for the client; or (e) for MA only, the representative's status as the client's spouse, or the deceased client's widow or widower, only when no one else has authority to represent the client's interests in the hearing process." (Emphasis added). See Bridges Policy Glossary (BPG), p. 4.

Further, the appointment of an AHR must be made in writing. BAM 600, p. 2. An AHR must be authorized or have made application through probate court **before** signing a hearing request for the client. BAM 600, p. 2.

In this case, the Claimant-decedent's niece as an AR, and **not** as an AHR, made a proper application for SER burial benefits. Upon DHS' denial of that application for reasons related to timeliness, Claimant-decedent's niece sought relief from DHS' denial by requesting a hearing. There is no evidence in the record showing that, when the request for hearing was made, Claimant-decedent's niece was either already an AHR or had made application to become an AHR with the probate court. As such, Claimant-decedent's niece lacked the requisite authority to request a hearing on the denial of SER benefits for Claimant-decedent. As set forth above, the distinction between an AR and an AHR is that the AHR has a legal right to stand in for or represent the claimant-decedent in the hearing process. The AR only has authority to make the initial application for benefits.

Put simply, Claimant-decedent's niece cannot proceed with a hearing without having first become an AHR. As a result, the undersigned, regrettably, cannot reach the merits of this case; that being whether DHS properly denied SER benefits when Claimant-decedent's niece made an initial inquiry to DHS regarding those benefits within the timeframe allowed under the policy. For the reason that it is improper for the Administrative Law Judge to decide the matter that was in dispute, and pursuant to Michigan Administrative Code R 400.903 and 400.906, the Claimant-decedent's niece's request for hearing is **DISMISSED**.



Andrea J. Bradley
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 13, 2011

2011-30824/AJB

Date Mailed: July 14, 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.

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.

AJB/pf

cc:

