

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-33026

Issue No: 5005

[REDACTED]

[REDACTED]

[REDACTED]

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the DHS client's (also referred to as "Claimant") request for a hearing received on May 2, 2011. After due notice, a three-way telephone hearing was held on August 11, 2011. Claimant is deceased, but Claimant's mother and authorized hearing representative personally appeared and provided testimony.

ISSUE

Did the department properly deny Claimant's State Emergency Relief (SER) application for burial assistance because the application was submitted more than 10 (ten) days after the date the burial, cremation or donation took place?

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 April 22, 2011. (Department Exhibit 1).
2. Claimant requested assistance to pay for her deceased daughter's cemetery/crematory expenses as well as related funeral director expenses. (Department Exhibits 1-3).
3. The decedent's burial/cremation took place on March 19, 2011. (Department Exhibits 1-3).
4. On April 26, 2011, the department mailed Claimant a SER Decision Notice (DHS-1419) denying assistance because the SER application was filed

more than 10 days after the date of the burial/cremation. (Department Exhibits 1-3).

5. The department received Claimant's request for a hearing on May 2, 2011. (Hearing Summary).

CONCLUSIONS OF LAW

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The department provides an administrative hearing to review the decision and determine its 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. See Michigan Administrative Code (Mich Admin Code) Rule 400.7001-400.7049. Department of Human Services (DHS or department) policies are found in the State Emergency Relief Manual (SER).

The SER program 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 decedent's remains must be in Michigan. ERM 306.

Only the following persons may apply for SER burial benefits as authorized representatives: (1) any relative-including minors or their authorized representative, (2) a person named in decedent's will to arrange burial, (3) a special administrator appointed by a probate court, (4) a legal guardian who was appointed by a probate court, (5) a person who had durable power of attorney at the time of death, (6) a funeral director with written authorization provided by a relative who is incapable due to illness or unable due to location. ERM 306.

In other situations, decedents are unclaimed bodies. ERM 306. For unclaimed bodies, the county medical examiner or designated county official may apply for SER burial benefits. 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. Department staff is required to clearly explain SER burial eligibility requirements and program payment limits to any person making an inquiry. ERM 306. This includes the requirement that the application for SER must be made within 10 calendar days of burial, cremation or donation. ERM 306.

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 60 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.

CAP/ds

