

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2011-51823  
Issue No.: 5005  
Case No.: [REDACTED]  
Hearing Date: November 21, 2011  
County: Wayne (18)

**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 following a request for a hearing submitted by Claimant's Authorized Hearing Representative ("AHR"). After due notice, a telephone hearing was conducted from Detroit, Michigan on Monday, November 21, 2011. Participants on behalf of the decedent were [REDACTED] [REDACTED] appeared on behalf of Department of Human Services ("Department").

**ISSUE**

Whether the Department properly denied the Claimant's request for State Emergency Relief ("SER") seeking 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. On July 22, 2011, the AHR applied for SER assistance for the burial of Decedent. (Exhibit 1, pp. 1 – 6)
2. The AHR (and Surviving Spouse) receives Retirement, Survivors, Disability Insurance ("RSDI") income. (Exhibit 1, pp. 7 – 9)
3. The AHR provided a bank statement to the Department reflecting an ending balance of \$568.93. (Exhibit 1, pp. 10, 11)

4. On August 2, 2011, the Department denied the SER request and sent the Notice of Case Action to the AHR. (Exhibit 1, pp. 12 – 19)
5. On August 18, 2011, the Department received the AHR's request for hearing.

### **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 Mich Admin Code Rules 400.7001 through 400.7049. Department policies are found in the State Emergency Relief Manual ("ERM").

State Emergency Relief 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. In processing a SER request, the Department is required to verify and count all non-excluded assets of group members. ERM 205. Income expected to be received by the decedent and the group members during the 30-day countable income period to determine copayments it considered. ERM 206; ERM 306 For burials, if the deceased jointly owned an asset and the asset ownership document indicates the joint owner has right to survivorship, the asset is not counted for SER burial purposes. ERM 205. The maximum payment for cremation of an individual over one month old is \$145.00. ERM 306. An application is denied if the total countable value of cash and non-cash assets prior to exclusions exceed the SER payment maximum for burials. ERM 306.

In this case, the Department properly included the AHR's RSDI income; however, the Department also included a jointly held checking account of the AHR and the decedent when it determined SER eligibility. Jointly held checking accounts have the right of survivorship. Pursuant to ERM 205, this asset should not have been included. As a result, the Department's determination is not upheld and the Department is required to re-determine the Claimant's eligibility. In light of the foregoing, although the Department did not have the information from the second funeral home where the decedent was ultimately cremated, when re-determining eligibility, the Department shall use this information.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds the Department's denial of the SER request is not upheld.

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall re-open and process the July 22, 2011 SER application in accordance with this decision and Department policy.
2. The Department shall notify the AHR of the determination in accordance with Department policy.
3. The Department shall supplement for lost benefits (if any) that the Claimant/AHR was entitled to receive if otherwise eligible and qualified in accordance with Department policy.

*Colleen M. Mamelka*

**Colleen M. Mamelka**

Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: November 28, 2011

Date Mailed: November 28, 2011

**NOTICE:** Michigan Administrative Hearing System (MAHS) 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. MAHS 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
  - misapplication of manual policy or law in the hearing decision,
  - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
  - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at  
Michigan Administrative hearings  
Re consideration/Rehearing Request  
P. O. Box 30639  
Lansing, Michigan 48909-07322

CMM/cl

cc:

