

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201153927
Issue No: 5005
Case No: [REDACTED]
Hearing Date: October 20, 2011
Ionia County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon a request for a hearing received from Claimant [REDACTED] (Claimant) on August 29, 2011. After due notice, a telephone hearing was held on October 20, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the Department of Human Services (department) properly denied Claimant's application for State Emergency Relief (SER) 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 June 3, 2011, Claimant submitted to the department a SER application (DHS 1514), requesting assistance in paying burial costs in the amount of [REDACTED] following the June 2, 2011 death of his daughter, [REDACTED]. (Department Exhibits 3-11)
2. In the SER application, Claimant listed his home address as [REDACTED]. Claimant also indicated that his daughter, [REDACTED], had resided in his household. Claimant signed the application as the Applicant or Authorized Representative. (Department Exhibits 3-11)
3. On June 6, 2011, the department mailed a SER Verification Checklist (DHS 3503-SER) to [REDACTED] at the address of [REDACTED]. The SER Verification Checklist requested that verification of [REDACTED] savings account be provided to the department by no later than June 13, 2011. The SER Verification Checklist was not addressed to Claimant, the individual identified in the SER application as the Applicant or Authorized Representative. (Department Exhibits 12-13)

4. On June 14, 2011, the department mailed a State Emergency Relief Decision Notice (DHS 1419) to Carolyn Pryslek at the address of [REDACTED]. The Decision Notice indicated that her request for assistance was denied due a failure to verify or allow the department to verify necessary information. The Decision Notice was not addressed to Claimant, the individual identified in the SER application as the Applicant or Authorized Representative. (Department Exhibit 1)
5. On August 29, 2011, Claimant submitted a hearing request protesting the denial of his SER application. (Request for a Hearing)

CONCLUSIONS OF LAW

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

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 State Emergency Relief (SER) program was 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 (ERM).

SER assists with, among other things, burial expenses when the decedent's estate, mandatory copayments, etc. are not sufficient to pay for burial, cremation, or costs associated with donation of the body to a medical school. ERM 306.

An application for assistance with burial expenses must be made no later than 10 calendar days after the date the burial, cremation or donation takes place. ERM 306. Only the following people may apply for SER burial expenses:

- any relative – including minors or their authorized representative;
- person named in decedent's will to arrange burial;
- special administrator appointed by probate court;
- legal guardian who was appointed by 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 either incapable due to illness or unable due to location. ERM 306.

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The department's standard of promptness mandates that an application for SER assistance must be processed by the department within **10 calendar days** of the date the signed application is received in the local DHS office. ERM 103. (Emphasis in original). Moreover, **clients must be informed** of all verifications that are required and where to return verifications. ERM 103. (Emphasis added). If the application is not processed on the application date, the deadline to return verification is eight calendar days from the date verification is requested. This does not change the standard of promptness date. ERM 103. The client must make a reasonable effort to obtain required verifications. The specialist must assist if the applicant needs and requests help. ERM 103. If neither the client nor the specialist can obtain the verifications despite a reasonable effort, the department must use the best available information. If no evidence is available, the department specialist must use their best judgment. ERM 103.

The department must notify the SER **applicant** in writing of the decision made on his or her application through the issuance of a DHS-1419, SER Decision Notice. ERM 103. (Emphasis added).

In this case, on June 3, 2011, Claimant timely applied for State Emergency Relief, requesting assistance in paying burial costs in the amount of [REDACTED] following the June 2, 2011 death of his daughter, [REDACTED]. In his application, Claimant identified himself not only as the decedent's father but as the Applicant or Authorized Representative. In doing so, Claimant listed his home address as [REDACTED], and indicated that his daughter had resided in his household prior to her death.

Despite Claimant having clearly identified himself as the proper SER applicant for burial expenses (being the father of the decedent), the department mailed a SER Verification Checklist to the attention of his daughter, the decedent, and *not* to the attention of Claimant. While it is true that the decedent shared the same address as Claimant, this is irrelevant given the department's obligation under ERM 103 to inform the client/applicant of all verifications. Indeed, even without the clear language of ERM 103, common sense dictates that providing adequate notice to the decedent's authorized representative is paramount when such notice is for the purpose of obtaining his verification of information in his SER application within a seven-day deadline.

Having failed to be properly notified of the verification needed by the department to process his application, Claimant was without notice of and, thus, unable to comply with his obligation in this regard. It was therefore no surprise that the department subsequently denied Claimant's SER application for lack of verification – although, again, the department did not notify Claimant in writing of this decision, as required by ERM 103, but instead notified the decedent.

At the hearing, the department representative testified that the Verification Checklist and SER Decision Notice were mailed to the attention of the decedent because, as the potential "grantee" of the SER benefit, the decedent's name was entered into the

department's Bridges computer system as the applicant. Consequently, all computerized notices generated in the case were addressed to the attention of the decedent. The department representative acknowledged that she was unfamiliar with

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how her local office has handled notifications in SER applications for burial expenses involving an applicant with a mailing address different than that held by the decedent prior to death because such circumstances had not yet arisen for that office. The department representative further acknowledged that, had Claimant timely provided the department with the requested verification or, alternatively, his statement that despite his reasonable effort, he could not provide the requested verification, the department would have contacted the bank in question and ultimately would have approved his SER application.

This Administrative Law Judge finds, based on the material and substantial evidence presented during the hearing, that the department failed to provide Claimant with notice of his obligation to submit verification information, and failed to provide Claimant with notice of the department's decision, both of which failures were contrary to the plain language of ERM 103. Consequently, this Administrative Law Judge finds that the department improperly determined Claimant's eligibility for SER burial expenses.

DECISION AND ORDER

Accordingly, the department's actions are **REVERSED**. The department shall redetermine Claimant's eligibility for SER burial expenses in accordance with the applicable department policy and award Claimant his SER burial expenses if he is otherwise entitled to them.

It is SO ORDERED.

 /s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 21, 2011

Date Mailed: October 24, 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.

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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.

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