

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

IN THE MATTER OF:
ELIZABETH MOAN
17 BROADWAY BLVD
BATTLE CREEK MI 49037

Reg. No: 2011-13554
Issue No: 5005
Case No: 100017841
Hearing Date: March 31, 2011
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on March 31, 2011. Claimant's mother appeared and testified.

ISSUE

Did the Department of Human Services properly deny the December 22, 2010 application for burial services, for Claimant?

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 December 22, 2010, Claimant's mother submitted an application for burial services, for Claimant.
2. On December 28, 2010, the application was denied. A Decision Notice State Emergency Relief (DHS-1419) was sent out.
3. On January 4, 2011, Claimant's mother submitted a 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 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 (SER).

In this case the application was denied based on Claimant having more countable assets than allowed for the program. It is undisputed that Claimant owned her own home and had no responsible relatives left behind. Claimant's mother argues that Claimant had no equity in her home so how can the Department determine she has too much in assets. Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

ERM 306 BURIALS

DEPARTMENT POLICY

State Emergency Relief (SER) assists with burial when the decedent's estate, mandatory co-pays, etc. are not sufficient to pay for:

- Burial.
- Cremation.
- Costs associated with donation of a body to a medical school.

The decedent's remains **must** be in Michigan.

Assets

Combine the decedent's and responsible relatives' cash and non-cash assets to determine the asset copayment.

Asset Denial

Deny the application if the total countable value of cash and noncash assets prior to exclusions exceed the SER payment maximum for burials. When assets exceed the payment maximum, the group cannot designate any of the assets as a supplement.

Example: The group's countable assets total \$1500. Deny SER as the assets exceed the payment maximum of \$700.

Estates

When there is no surviving group member, assets owned by the decedent at the time of death constitute an estate. For a group of one, there is no automatic asset eligibility based on receipt of MA, FAP, SSI, etc. The estate includes all of the decedent's cash and non-cash assets such as a former homestead, auto, bank accounts, etc.

The probate court determines the value of a deceased person's estate and the amount available to meet burial expenses. Relatives or others must file a petition to start probate court proceedings.

Determine the SER Burial eligibility of a deceased person with an estate as follows:

Estate Value Exceeds Burial Payment

- **Deny the application if the value of the decedent's estate is projected to equal or exceed the SER burial payment.** Estimates from expert sources (car dealers, tax statements, etc.) may be necessary to determine total estate value. You do not need to wait for a probate court final determination.

Probate Court Determination

- Re-register and approve a denied application if probate court later establishes the amount available from the estate for burial expenses is less than the maximum allowable SER burial payment. All other eligibility factors must be met.

Approval With Repay

- Approve the application if the value of the decedent's estate is projected to be less than the SER burial payment, but the person starting the proceedings in probate court must sign a repay agreement (DHS-2157) to repay the department if the probate court determines the amount available to meet burial expenses exceeded the SER maximum.

Evidence presented by Claimant's mother indicates the May 7, 2010 original loan value on Claimant's home was \$47,710. The evidence shows the current loan balance on December 31, 2010 as \$41,500.89. There is no evidence in the record which shows the current appraised value of the property. There is no evidence in the record that shows Claimant had no form of insurance or other methods of paying of the mortgage in the event of her demise. Claimant's mother's assertion that there is no equity is very likely true. However, no jurisdiction exists for determining the value of Claimant's estate in this hearing. As described in Department policy above, there is an opportunity to have the estate determined and then if it is less than the \$700 maximum benefit under this program, Claimant's mother can have the application reinstated.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly denied the December 22, 2010 application for burial services, for Claimant.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHeld.

/s/ _____
Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: _____

Date Mailed: _____

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.

GFH/vc

cc: Elizabeth Moan
Calhoun County DHS
C. George
B. Anders
G. F. Heisler
Administrative Hearings