

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201144349
Issue No: 5005
Case No: [REDACTED]
Hearing Date: August 25, 2011
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

HEARING DECISION

This matter is before me pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received on June 8, 2011. After due notice, a telephone hearing was held on August 25, 2011. Claimant and Department appeared by telephone and provided testimony.

ISSUE

Whether the Department properly denied Claimant's State Emergency Relief (SER) application?

FINDINGS OF FACT

I find as material fact, based upon the competent, material and substantial evidence on the whole record:

1. On Monday June 6, 2011, the Claimant contacted the Department. The Claimant told the Department her son had died. The Department told the Claimant she may be eligible for some death benefits. The Department told the Claimant she needed to fill out a DHS-2240 (Change of Status Report).
2. On or around June 6, 2011, the Claimant submitted to the Department a completed DHS-2240.
3. On June 7, 2011, the Claimant's son was cremated. (Department Exhibit 2).
4. On June 28, 2011, the Claimant submitted to the Department a request for SER. The request was for the burial costs for her son. (Department Exhibit 1).

5. On June 28, 2011, the Department sent the Claimant a SER Decision Notice. The Notice indicated the Claimant's SER request was denied because the application was not filed within 10 days from the date of burial/cremation.
6. On July 8, 2011, the Claimant filed with the Department a request for hearing.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1). An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the 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. MAC R 400.7001-400.7049. Department of Human Services (DHS or department) policies are found in the State Emergency Relief Manual (SER).

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.

Staff must clearly explain SER burial eligibility requirements and program payment limits to any person making an inquiry. This includes the requirement that the application for SER must be made within 10 calendar days of burial, cremation or donation. (ERM 306 p. 1)

Based upon the un rebutted testimony of the Claimant, I find the Claimant inquired into the benefits available to her due to the death of her son. And at no time during the application and inquiry process did the Department provide notice to the Claimant regarding the 10 day time period.

Because the notice requirement was a specific requirement on the part of the Department and the Department did not provide the proper notice, I find the Department improperly denied the Claimant's application for SER.

DECISION AND ORDER

I find, based upon the above findings of fact and conclusions of law that the Department did not act in accordance with policy in determining the Claimant's SER eligibility.

The Department shall consider the Claimant's SER application for burial assistance timely and process it to determine eligibility.

The Department's SER eligibility determination is **REVERSED**.

_____/s/_____
Corey A. Arendt
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 25, 2011

Date Mailed: August 26, 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 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.

CAA/cr

cc:

