

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-20268
Issue No.: 5005
Case No.: [REDACTED]
Hearing Date: April 26, 2012
County: Macomb (50-20)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on April 26, 2012, from Detroit, Michigan. Claimant is deceased. Participants on behalf of Claimant included Claimant's daughter, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly deny Claimant's application close Claimant's case for:

- | | |
|---|---|
| <input checked="" type="checkbox"/> State Emergency Relief (SER)? | <input type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant applied for benefits received benefits for:

- | | |
|---|---|
| <input checked="" type="checkbox"/> State Emergency Relief (SER). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. On October 26, 2011, the Department
 denied Claimant's application closed Claimant's case
due to a Department calculation that the application for benefits was filed more than
ten days after the cremation of the deceased.
3. On October 26, 2011, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On November 7, 2011, Claimant filed a hearing request, protesting the
 denial of the application. closure of the case.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

SER was established by 2004 Michigan Public Acts 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and MACR 400.7001-400.7049. SER policies and procedures are found in the Emergency Relief Manual (ERM). available online at www.michigan.gov/dhs-manuals.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3001 through Rule 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, Rule 400.3151 through Rule 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of

1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and 1999 AC, Rule 400.5001 through Rule 400.5015.

Additionally, ERM 306, "Burials," requires that an SER burial, cremation or donation application must be filed within ten business days of the actual event of burial, cremation or donation. ERM 306, p. 1. In this case a cremation occurred, but the actual date of the cremation is unknown. It is necessary, therefore, to determine a date for purposes of this decision. The fact-finding function is within the authority of the Administrative Law Judge.

The evidence of record provides four points of reference. First, the date of death was Monday, [REDACTED]. Second, the purchase contract was executed on Tuesday, [REDACTED]. It was executed at the [REDACTED]. The first paragraph of the contract authorizes the funeral home to deliver the remains to [REDACTED], for cremation procedures.

Third, the Department's computer records indicate the cremation date was Wednesday, [REDACTED]. Fourth, the cremation remains were picked up by the Claimant's daughter on Saturday, [REDACTED], at the funeral home. Claimant's SER application date is Tuesday, [REDACTED].

Based on the information in the record, it is found and determined that the actual cremation date is Wednesday, [REDACTED], and that Claimant's SER application is within ten business days of that date. The date of [REDACTED] is determined to be the date of the actual cremation, because it does appear in the Department's records as such, and there is no reason to reject it. Also, it is reasonable to infer that if the contract was executed on Tuesday, [REDACTED] at the funeral home, the cremation company, as an outside contractor, would not be at the funeral home on [REDACTED] and would be likely to arrive the next day.

As the tenth business day after Wednesday, [REDACTED] would be Wednesday, [REDACTED] it is found and concluded that Claimant's SER application was submitted in a timely fashion on the ninth business day after the cremation took place.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

- | | |
|---|--|
| <input type="checkbox"/> properly denied Claimant's application | <input checked="" type="checkbox"/> improperly denied Claimant's application |
| <input type="checkbox"/> properly closed Claimant's case | <input type="checkbox"/> improperly closed Claimant's case |

for: SER FIP FAP MA SDA CDC.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly. did not act properly.

Accordingly, the Department's SER FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

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

1. Reinstate Claimant's SER application;
2. Initiate procedures to process Claimant's application and provide SER benefits on behalf of Claimant to Claimant's daughter, [REDACTED].
3. All steps shall be taken in accordance with Department policy and procedure.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 30, 2012

Date Mailed: April 30, 2012

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. (60 days for FAP cases)

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.

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

JL/pf

cc:

