

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

IN THE MATTER OF:



Reg. No: 20122697
Issue No: 5005
Case No: [REDACTED]
Hearing Date: November 17, 2011
Schoolcraft 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. After due notice, a telephone hearing was held on November 17, 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 July 17, 2011, the Claimant's wife was cremated.
2. On or around July 17, 2011, the Claimant visited the Luce County DHS office. The Claimant spoke to a receptionist at the Luce County DHS office. The Claimant told the receptionist he was there seeking SER for burial costs. The receptionist provided the Claimant with an application for SER relief but never told the Claimant he had only 10 calendar days from the date of cremation to submit the application.
3. On or around August 29, 2011, the Claimant read the application material; completed the paperwork; and submitted it to the Luce County DHS office.
4. On September 2, 2011, the Schoolcraft County DHS office received the Claimant's August 29, 2011 application from the Luce County DHS office.

5. On September 6, 2011, the Schoolcraft County DHS office denied the Claimant's application for SER relief. At this time, the Schoolcraft County DHS office sent notification to the Claimant informing him of the denial.
6. On September 19, 2011, the Claimant filed a hearing request protesting the September 6, 2011 denial.

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 and the Department, I find that prior to the deadline date for SER the Claimant made an inquiry into SER for burial costs. Consequently the Department failed to provide the Claimant with the deadline for an SER application seeking burial costs. As a result, I am reversing the Department.

DECISION AND ORDER

I find based upon the above Findings of Fact and Conclusions of Law the Department improperly determined the Claimant's eligibility for SER benefits.

Accordingly, the Department's decision to deny the Claimant's application for SER relief is **REVERSED**.

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

1. Initiate a redetermination as to the Claimant's eligibility for SER benefits beginning July 17, 2011 and to issue retroactive benefits if otherwise eligible and qualified.

/s/

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

Date Signed: November 18, 2011

Date Mailed: November 21, 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:

