

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-50463
Issue No.: 5005
Case No.: [REDACTED]
Hearing Date: September 4, 2012
County: Wayne (82)

SUPERVISING ADMINISTRATIVE LAW JUDGE: Kathleen H. Svoboda

DISMISSAL FOR LACK OF JURISDICTION

This matter is before the undersigned Supervising Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following a request for a hearing. After due notice, a telephone hearing was conducted by Administrative Law Judge Michael Bennane on September 4, 2012, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly deny the request for State Emergency Relief (SER) assistance with burial?

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 March 13, 2012, [REDACTED] applied for SER assistance for the burial of Decedent.
2. On March 21, 2012, the Department sent [REDACTED] notice of the application denial to [REDACTED].
3. On May 1, 2012, the Department received a hearing request protesting the denial of SER assistance with burial.

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 1999 AC, Rule 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

The department denied the claimant's application for burial services due to the claimant having a total need amount that is less than the total client contribution, the death benefit amount and the funeral contract amount.

The request for hearing was submitted by claimant's [REDACTED]. There was no evidence offered that Claimant's [REDACTED] had probate court appointment that would authorize him to act on the deceased claimant's behalf and request a hearing.

The Department of Human Services Emergency Relief Manual (ERM) 306 (May 1, 2012) allows any family member to apply for SER Burial benefits:

Who May Apply

Only the following people may apply for SER burial benefits as authorized representatives. In other situations, decedents are unclaimed bodies.

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:

Incapable due to illness.

Unable due to location.

For unclaimed bodies, the county medical examiner or designated county official. ERM page 1.

In the instant case, the application was submitted by the claimant's great-granddaughter, Tarea Hamilton.

Bridges Administrative Manual (BAM) 110 (May 1, 2012) also defines an authorized representative (AR):

An authorized representative (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf (for example, to obtain F AP benefits for the group). Page 7.

Immediately following this definition of an AR, the manual makes the important distinction between an AR and an Authorized Hearing Representative (AHR):

An AR is **not** the same as an [Authorized Hearings Representative](#) (AHR); see the Bridges Policy Glossary (BPG) for hearings policy definition. BAM 110, page 7.

Bridges Policy Glossary (BPG) defines an AHR as:

AUTHORIZED HEARINGS REPRESENTATIVE (AHR)

The person who stands in for or represents the client in the hearing process and has the legal right to do so. This right comes from one of the following sources:

Written authorization, signed by the client, giving the person authority to act for the client in the hearing process.

Court appointment as a guardian or conservator.

The representative's status as legal parent of a minor child.

The representative's status as attorney at law for the client.

For **MA only**, the representative's status as the client's spouse, or the deceased client's widow or widower, **only** when no one else has authority to represent the client's interests in the hearing process.

An AHR has no right to a hearing, but rather exercises the client's right. Someone who assists, but does NOT stand in for or represent, the client in the hearing process need NOT be an AHR. Page 4.

In the instant case, there has been no evidence that Claimant's [REDACTED], who filed the hearing request and participated in the hearing, had authority to do so. There were no papers presented from the probate court authorizing [REDACTED] to request the hearing on his grandmother's behalf.

BAM 600 requires

The appointment of an authorized hearing representative must be made in writing. An authorized hearing representative must be authorized or have made application through probate court **before** signing a hearing request for the client.

Verify the authorized hearing representative's prior authorization unless the authorized hearing representative is the client's attorney at law, parent or, for **MA only**, spouse. Relationship of the parent or spouse must be verified only when it is questionable. MAHS will deny a hearing request when the required verification is **not** submitted; see local office and MAHS Time Limits in this item. Page 2.

In this case, the deceased claimant's [REDACTED] is an AR, having made a proper application for SER burial benefits. The Department's denial of that application gave rise to the hearing request.

The decedent is considered the claimant for purposes of SER benefits. An authorized representative (AR) may apply for SER burial benefits on behalf of the claimant-decedent, as referenced above. The AR only has authority to make the initial application for benefits. Once the application is denied, the AR cannot proceed with a hearing without having first become an AHR.

In this case, neither Claimant's [REDACTED] or nor [REDACTED] have made application through the probate court for authority to act as the AHR.

Thus, without probate court appointment, Claimant's [REDACTED] has no authority to request a hearing in this matter.

The lack of jurisdiction to hear the merits of this case render any discussion regarding the Department's findings as to eligibility for SER Burial program benefits irrelevant.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge lacks jurisdiction to consider the merits of this case as the Request for Hearing was not filed and an AHR appointed by the probate court.

DECISION AND ORDER

ACCORDINGLY, the Request for Hearing in this matter is DISMISSED.


Kathleen H. Svoboda
Supervising Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 17, 2012

Date Mailed: October 17, 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.

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.

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

MJB/ctl

cc:

