

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

IN THE MATTER OF:



Reg. No.: 201327550
Issue No.: 5005
Case No.: [REDACTED]
Hearing Date: May 23, 2013
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following a request for a hearing submitted by the Authorized Hearing Representative (AHR) of the Decedent, Geraldine Young. After due notice, a telephone hearing was held on May 23, 2013, from Detroit, Michigan. Participants on behalf of the Decedent included [REDACTED], the Decedent's mother and Authorized Hearing Representative (AHR). Participants on behalf of Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

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 October 22, 2012, Decedent's AHR submitted a SER application for assistance for the burial of Decedent.
2. On October 28, 2012, the Department sent notice of the application denial to Decedent's AHR.
3. On January 25, 2013, 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 Department of Human Services State Emergency Relief Manual (ERM) and Department of Human Services Bridges Administrative Manual (BAM).

As a preliminary matter, it is noted that the Decedent's AHR, as a parent, had authority to request the current hearing concerning payment of funeral expenses for Decedent, her daughter. BAM 600 (August 2012), p 2; ERM 306 (May 2012), p 1.

The Department testified that Decedent's AHR's October 22, 2012, SER application for burial assistance was denied because she had filed the application more than 10 days after the burial. Department policy provides that an application for SER burial must be made no later than 10 business days after the date the burial, cremation or donation takes place. ERM 306 (May 2012), p 1; ERM 103 (August 2012), p 2. In this case, Decedent died on September 23, 2012, and her funeral was held on September 28, 2012. Therefore, more than ten days had lapsed between the funeral date and the date the application was filed.

However, Decedent's AHR credibly testified that on October 4, 2012, she prepared a note on the back of a computer printout concerning Department burial assistance with her name, address, and phone number and a handwritten request for a worker and assistance with filing out the required forms. She credibly testified that she dropped the note that same day in the Department drop box and signed the log-in sheet. When the Department did not respond, she returned to the local office on October 22, 2012, asked for assistance, and was then provided with the forms to fill out. She completed and submitted the SER application that day.

ERM 306 provides that the Department must clearly explain SER burial eligibility requirements and program payment limits to any person making an inquiry, including the requirement that the application for SER must be made within 10 business days of burial, cremation or donation. ERM 306, p 1. Under the facts in this case, where Decedent's AHR requested assistance from the Department within ten days of Decedent's funeral but the Department did not timely respond and assist the AHR, the Department did not act in accordance with Department policy.

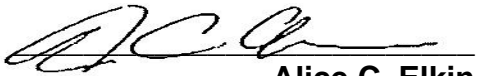
DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act in accordance with Department policy when it did not assist the AHR in timely filing the SER application for burial assistance.

Accordingly, the Department's decision is REVERSED.

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

1. Reregister Decedent's AHR's SER application dated October 22, 2012 for October 4, 2012;
2. Begin processing the application in accordance with Department policy;
3. Issue any payments to the service provider that the AHR is eligible to receive; and
4. Notify the AHR in writing of its decision in accordance with Department policy.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 6/12/2013

Date Mailed: 6/12/2013

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
Reconsideration/Rehearing Request
P. O. Box 30639

201327550/ CG

Lansing, Michigan 48909-07322

ACE/hw

cc:

