

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201341312
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: July 24, 2013
County: Macomb

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on July 24, 2013. Claimant's sister appeared and testified. The Department was represented by [REDACTED].

ISSUE

Did the Department of Human Services properly deny Claimant's application for State Emergency Relief (SER) burial services?

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 28, 2013, Claimant's sister, [REDACTED], submitted an application for State Emergency Relief (SER) burial services for Claimant. A Verification Checklist (DHS Form 3503) was mailed to [REDACTED] at her address, requesting verification of Claimant's bank accounts. The verifications were due on April 4, 2013.
- (2) On April 2, 2013, [REDACTED] spoke with [REDACTED] by telephone and was made aware that the bank account verifications had not been received.
- (3) On April 5, 2013, [REDACTED] spoke with [REDACTED] by telephone and was made aware that the bank account verifications had not been received. [REDACTED] stated that Claimant's female roommate had faxed the information in already. A Decision Notice State Emergency Relief (DHS-1419) was sent to [REDACTED] stating the application was denied for failure to provide verification of the bank accounts.
- (4) On April 15, 2013, [REDACTED] submitted a request for hearing along with verification of Claimant's bank accounts.

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 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).

In this case Claimant had a female roommate who was not eligible to request burial services for Claimant in accordance with Department of Human Services State Emergency Relief Manual (ERM) 306 (2012) page 1. [REDACTED], Claimant's sister, is eligible to submit the application. [REDACTED] asserted that she did not receive the Verification Checklist (DHS Form 3503) and was unaware that Claimant had any bank accounts. ERM 306 page 3 describes the requirement of calculating any copayments from responsible relatives based on whether the decedent and the relatives were living together at the time of death. The following section of ERM 306 pages 5 & 6 are applicable in this case:

Estates

When there is no surviving group member, assets owned by the decedent at the time of death constitute an estate. For a group of one, there is no automatic asset eligibility based on receipt of MA, FAP, SSI, etc. The estate includes all of the decedent's cash and non-cash assets such as a former homestead, auto, bank accounts, etc.

The probate court determines the value of a deceased person's estate and the amount available to meet burial expenses. Relatives or others must file a petition to start probate court proceedings.

Determine the SER Burial eligibility of a deceased person with an estate as follows:

Estate Value Exceeds Burial Payment

- Deny the application if the value of the decedent's estate is projected to equal or exceed the SER burial payment. Estimates from expert sources (car dealers, tax statements, etc.) may be necessary to determine total estate value. Do not wait for a probate court final determination.

Probate Court Determination

- Re-register and approve a denied application if probate court later establishes the amount available from the estate for burial expenses is less than the maximum allowable SER burial payment. All other eligibility factors must be met.

Approval With Repay

- Approve the application if the value of the decedent's estate is projected to be less than the SER burial payment, but the person starting the proceedings in probate court must sign a DHS-2157, Repay Agreement, to repay the department if the probate court determines the amount available to meet burial expenses exceeded the SER maximum.

Case Record Information

If the deceased was a current or former recipient of DHS services, existing case record material should be used to identify the possible existence of an estate.

Potential Recoupment/Fraud

If the existence of an estate is discovered after an SER payment has been made, recoupment must be pursued. Do **not** sign any documents for probate court indicating that DHS has no claims unless/until SER has been repaid. A fraud referral may be made if the applicant knowingly failed to inform the department of the existence of assets.

The Hearing Summary (DHS-3050) in this case states that while [REDACTED] did not list any bank accounts on the application, there was already a record of the accounts in BRIDGES. There is no evidence in this record which shows that [REDACTED] had any legal right or authority to access Claimant's banking records. The evidence in this record does not show that the Department followed ERM 306 when Claimant's application was processed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services DID NOT properly deny Claimant's application for State Emergency Relief (SER) burial services.

It is ORDERED that the actions of the Department of Human Services, in this matter, are **REVERSED**.

It is further ORDERED that the March 28, 2013, application be reinstated and processed in accordance with ERM 306.

/s/ _____
Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 08/02/2013

Date Mailed: 08/05/2013

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 receipt 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.

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

GFH/sw

cc:

