

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201332827
Issue No.: 5005
Case No.: [REDACTED]
Hearing Date: August 28, 2013
County: Washtenaw

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 Claimant. After due notice, a telephone hearing was held on August 28, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Eligibility Specialist) and [REDACTED] (Assistance Payments Supervisor).

ISSUE

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

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 February 15, 2013, Decedent's "significant other" applied for SER assistance for the burial of Decedent.
2. On February 20, 2013, the Department sent notice of the application denial to Decedent's "significant other."
3. On February 26, 2013, the Department received a hearing request protesting the denial of SER assistance with burial expenses.

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 SER program assists with burial when the decedent's estate, mandatory copays, etc are not sufficient to pay for burial, cremation or costs associated with donation for a body to a medical school. ERM 306.

Only the following persons may apply for SER burial benefits as authorized representatives: (1) any relative-including minors or their authorized representative, (2) a person named in decedent's will to arrange burial, (3) a special administrator appointed by a probate court, (4) a legal guardian who was appointed by a probate court, (5) a person who had durable power of attorney at the time of death, (6) a funeral director with written authorization provided by a relative who is incapable due to illness or unable due to location. ERM 306.

Here, the Department contends that Claimant was not an authorized representative who may apply for SER burial services under ERM 306. Claimant, on the other hand, contends that she has a power of attorney over the decedent.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The record contained the Application for SER (DHS-1514) which asked on page 5 the following: "What is your **legal** relationship to the deceased?" Claimant responded "significant other." Although Claimant contends that she had a power of attorney form, she did not provide any documents to the Department nor did she produce a copy at the hearing. Under ERM 306, Claimant has not shown that she is an authorized representative who may apply for SER burial benefits. She has not shown that she is: (1) a relative or an authorized representative, (2) a person named in the decedent's will to arrange burial, (3) a special administrator appointed by a probate court, (4) a legal guardian who was appointed by a probate court, (5) a person who had durable power of attorney at the time of death, or (6) a funeral director with written authorization provided by a relative who is incapable due to illness or unable due to location. See ERM 306.

Based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that the Department properly denied the SER application for burial expenses.

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 act properly.

Accordingly, the Department's decision is **AFFIRMED**.

IT IS SO ORDERED.

/s/ _____
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 28, 2013

Date Mailed: August 29, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

201332827/CAP

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CAP/aca

cc:

