

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

**IN THE MATTER OF:**

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Reg. No.: 2013-68226  
Issue No.: 5005  
Case No.: ██████████  
Hearing Date: November 4, 2013  
County: Oakland (63-02)

**ADMINISTRATIVE LAW JUDGE:** Alice C. Elkin

**HEARING DECISION**

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on November 4, 2013, from Madison Heights, Michigan. Participants on behalf of Claimant/Decedent included ██████████ ██████████ ██████████ ██████████ Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ ██████████

**ISSUE**

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

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On August 19, 2013, the AR applied for SER assistance for burial of Claimant/Decedent.
2. On August 19, 2013, the Department sent the AR a Verification Checklist requesting verification of the AR's identity and Claimant/Decedent's checking account by August 26, 2013.
3. When it did not receive the requested verification, the Department sent the AR a SER Decision Notice on August 27, 2013, denying the application.

4. On September 3, 2013, the AR filed a request for hearing disputing the Department's action.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

Additionally, as a preliminary matter, it is noted that, for SER assistance with burial services, any relative of the client can apply as an authorized representative. Therefore, the AR, as Claimant/Decedent's son-in-law, had authority to apply for SER burial benefits for Claimant/Decedent as an authorized representative. ERM 306 (March 2013), p. 1. While BAM 600 (July 2013), pp. 2-3, provides that if a client's authorized hearing representative signs a request for hearing, the representative must be authorized or have made application through probate court before signing a hearing request for the client, ERM 102 (March 2013), p. 2, expressly provides that "any applicant" for SER services has the right to request a hearing regarding the Department's SER action. ERM 102 (March 2013), p. 2. Because Department policy allows the AR to apply for SER burial assistance, it follows that he has the right to request a hearing concerning the denial of such assistance despite the lack of any probate court authorization to act on Claimant/Decedent's behalf.

In this case, in connection with processing the AR's SER burial application, the Department sent the AR an August 19, 2013, VCL requesting verification of identity and of Claimant/Decedent's bank account. The Department must verify asset value of the decedent's and responsible relative's cash and non-cash assets, including checking accounts, to determine if an asset copayment applies. ERM 306 (March 2013), pp. 4-6, 9; ERM 205 (March 2013), pp. 1, 2, 6. An authorized representative must also verify his own identity. ERM 103, p. 7. Thus, the Department properly requested the verifications at issue. When it did not receive a response, the Department sent the AR an SER Decision Notice denying the burial assistance application for failure to verify. See also ERM 105 (March 2013), p. 5.

At the hearing, the AR credibly testified that he did not receive the VCL. He explained that he had had issues with the United States Postal Service (USPS) improperly delivering mail to neighbors and had filed complaints with USPS when he realized that his SER burial application had been denied because he had failed to verify information on the VCL he did not receive. The Department testified that (1) the VCL was sent by its central print office to the address the AR verified as his, (2) it was not aware of any

issues with the AR's mail delivery, and (3) it did not receive any returned mail sent to the AR.

However, Department policy requires that the Department conduct an in-person interview with the authorized representative, the purpose of which is to verify the applicant's identity, inform applicants of their rights and responsibilities, and explain the SER eligibility requirements that must be met before approving SER payment. ERM 103 (March 2013), pp. 5-6. The Department testified that it had not had any discussion with the AR regarding required verifications because Claimant/Decedent was an active Department benefit recipient. However, under policy, the Department was required to hold an in-person interview with the AR, who had submitted an application to the local office for benefits as an authorized representative for Claimant/Decedent, not on his own behalf. Because the Department did not conduct an in-person interview with the AR, the AR did not have the opportunity to verify his identity at the interview and become aware that he would be responsible for verifying assets.

Because of the mail issues the AR had and the Department's failure to conduct an in-person interview with the AR, the Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied the SER application for assistance with burial services.

### **DECISION AND ORDER**

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister the August 19, 2013, SER application for assistance with Claimant/Decedent's burial;
2. Reprocess the application;
3. Issue payment as provided in policy for any SER burial benefits Claimant/Decedent is eligible to receive;
4. Notify the AR in writing of its decision.



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

Date Signed: November 18, 2013

Date Mailed: November 18, 2013

**NOTICE OF APPEAL:** 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.

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).

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.

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

ACE/pf

cc: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]