

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

IN THE MATTER OF:

[REDACTED]
c/o [REDACTED]
[REDACTED]

Reg. No.: 201345311
Issue No.: 5005
Case No.: [REDACTED]
Hearing Date: July 9, 2013
County: Cass

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/Decedent's daughter. After due notice, a three-way telephone hearing was held on July 9, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Decedent's daughter) and [REDACTED] (Decedent's brother). Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist) and [REDACTED] (Assistance Payments Supervisor).

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 April 23, 2013, Decedent's daughter applied for SER assistance for the burial of Decedent.
2. On April 23, 2013, the Department sent notice of the application denial to Decedent's daughter.
3. On May 6, 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 1993 AACRS R 400.7001-400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

State Emergency Relief (SER) assists with burial when the decedent's estate, mandatory copays, etc. are not sufficient to pay for: burial, cremation, costs associated with donation of a body to a medical school, cremation permit fee for an unclaimed body and mileage costs for an eligible cremation of an unclaimed body. ERM 306.

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. The decedent's remains must be in Michigan. ERM 306.

An application for SER burial must be made no later than 10 calendar days after the date the burial, cremation or donation takes place. ERM 306. Department staff is required to clearly explain SER burial eligibility requirements and program payment limits to any person making an inquiry. ERM 306.

For purposes of assets, the Department will deny the application if "the total countable value of cash and non-cash assets prior to exclusions exceed the SER payment maximum for burials." ERM 306, p 5. When assets exceed the payment maximum, the group cannot designate any of the assets as a supplement. ERM 306, p 5. Example: The group's countable assets total \$1500. Deny SER as the assets exceed the payment maximum of \$700. ERM 306, p 5.

Here, the Department denied Claimant's SER application for burial services due to excess assets. According to the Department, the decedent had a checking account at [REDACTED] in the amount of \$1,499.21. Claimant, on the other hand, contends that the decedent did not have excess income because the [REDACTED] checking account balance was the result of an overpayment of Supplemental Social Security (SSI) benefits paid to the decedent. During the hearing, Claimant's witness testified that he advised the Department (and/or provided the Department with a copy of the SSI overpayment letter) that demonstrated the \$1,499.21 did not belong to the decedent. Claimant's witness stated that he provided this information during a face-to-face meeting with Department staff on or about April 23, 2013. The Department representatives confirmed that an in-person meeting took place, but denied having any knowledge of the SSI overpayment at the time. The Department denied the SER burial application due to excess assets on April 23, 2013. The Department asserts that it first became aware of the SSI overpayment when Claimant requested a hearing on May 6, 2013.

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 a December 20, 2012 letter from the Social Security Administration (SSA) to the decedent entitled, "Notice of Overpayment." In this letter, the SSA indicates that from October 2012 through December 2012, it paid the decedent \$1,983.00 in SSI money that she was not entitled to receive. The record also contains an Assistance Application (DHS-1171) and an Application for State Emergency Relief (DHS-1514) both dated April 23, 2013. Both applications indicate that the decedent had \$1,499.21 in a checking account at [REDACTED]. The record also contained a January 2013 financial statement from [REDACTED] which indicated the decedent had a checking account in her name with low balance of \$1,499.21.

This Administrative Law Judge finds that the Department's version of events is more credible based on the evidence. Had Claimant and/or Claimant's witness truly provided the Department with the SSI overpayment notice (or at least informed the Department about the overpayment) prior to April 23, 2013, there is no explanation for why Claimant did not include this information on either assistance application. Neither the DHS-1171 nor the DHS-1514 includes any indication that the checking account balance was erroneous or was suspect due to an overpayment of SSI benefits. In fact, both documents are consistent in that they both clearly list the decedent's \$1,499.21 checking account at [REDACTED]. This Administrative Law Judge believes that Claimant found the SSA overpayment letter after the Department's SER denial. However, based on the information the Department had at the time, it was reasonable for the Department to conclude that the \$1,499.21 checking account balance was decedent's countable assets at the time. Based on the competent, material, and substantial evidence presented during the hearing, this Administrative Law Judge finds that the Department properly denied the SER application for burial assistance due to excess assets.

DECISION AND ORDER

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 assistance.

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

201345311/CAP
IT IS SO ORDERED.

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

Date Signed: July 15, 2013

Date Mailed: July 16, 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 mailing 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

CAP/aca

cc:

