

**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.: 2013-63238
Issue No.: 5005
Case No.: ██████████
Hearing Date: October 9, 2013
County: Kent

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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/Claimant's Authorized Hearing Representative (AHR). After due notice, a telephone hearing was held on Wednesday, October 9, 2013, from Lansing, Michigan. Participants on behalf of Claimant/Claimant's AHR included the Claimant's ██████████. Participants on behalf of the Department of Human Services (Department) included Mark Logan, FIM.

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 July 9, 2013, Claimant/Claimant's AHR applied for SER assistance for the burial of Decedent.
2. On July 10, 2013, the Department sent notice of the application denial to Claimant/Claimant's AHR.
3. On July 31, 2013, Claimant/Claimant's AHR filed a hearing request protesting the denial of SER assistance with burial.

CONCLUSIONS OF LAW

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. Department policies are found in the Department of Human Services State Emergency Relief Manual (ERM).

Additionally, the Claimant died on July 7, 2013. On July 9, 2013, the family filed a SER application for assistance with the Claimant's burial. Department Exhibit 6. Based on the funeral bill submitted, the family and friends contribution exceeded the DHS maximum allowable. Department Exhibit 3. On July 10, 2013, the SER application was denied due to the total cost of the burial exceeding the maximum family contribution plus the maximum SER payment. Department Exhibit 2. ERM 306.

The Claimant's funeral was held on July 13, 2013. During the hearing, the Claimant's daughter stated that the funeral was less than the amount estimated. The family did not know about the SER limits for burial. She said that she was able to trim the funeral budget and that the actual funeral costs were in keeping with the SER policy for burial assistance. The Claimant's daughter submitted a bill from the funeral home dated July 13, 2013 that was lower than the original bill submitted, which may make the Claimant eligible for SER. Claimant's Exhibit A.

Therefore, the Department did not properly determine the Claimant's eligibility for SER because the actual bill was lower than the estimated bill.

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

- acted in accordance with Department policy
- did not act in accordance with Department policy
- failed to satisfy its burden of showing that it acted in accordance with Department policy

when it denied the SER burial application.

DECISION AND ORDER

Accordingly, the Department's SER decision is AFFIRMED **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. Initiate a redetermination of the Claimant's eligibility for SER by using the actual bill submitted.
2. Provide the Claimant's Daughter with written notification of the Department's revised eligibility determination.
3. Issue the Claimant's Daughter any retroactive benefits she/he may be eligible to receive, if any.



Carmen G. Fahie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 10/30/2013

Date Mailed: 10/30/2013

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

2013-63238/CGF

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

CGF/pw

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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[REDACTED]
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