

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-64437
Issue No.: 5005
Case No.: [REDACTED]
Hearing Date: October 10, 2013
County: Oakland (63-02)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 and Authorized Representative [REDACTED]. After due notice, a telephone hearing was held on October 10, 2013, from Detroit, Michigan. Participants on behalf of Claimant/Decedent included Claimant's AR and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

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. Claimant/Decedent died on April 6, 2013, and his remains were cremated by April 12, 2013.
2. On July 19, 2013, Claimant's daughter and AR applied for SER assistance for the burial/cremation of her father, Claimant/Decedent.
3. On July 23, 2013, the Department sent notice of the application denial to Claimant's AR.
4. On August 14, 2013, Claimant's AR 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, as a preliminary matter, it is noted that Claimant's AR, as a relative of Claimant/Decedent, had authority to apply for SER burial benefits for Claimant/Decedent as an authorized representative. ERM 306 (March 2013), p. 1.

The Department testified, and the July 23, 2013, SER Decision Notice showed, that Claimant's AR's July 19, 2013, SER application for burial assistance was denied because she had filed the application more than 10 days after Claimant/Decedent's cremation. Department policy provides that an application for SER burial must be made no later than 10 business days after the date the burial, cremation or donation takes place. ERM 306 (May 2012), p .1; ERM 103 (March 2013), p. 2.

In this case, Decedent died on April 6, 2013, and the funeral home completed services by April 12, 2013. The Department testified that it collaterally contacted the funeral home to verify the date of services; Claimant's AR acknowledged that Claimant died [REDACTED], and he was cremated within days of his death. Therefore, more than ten days, in fact more than three months, had lapsed between the [REDACTED], date the funeral home completed its services and the July 19, 2013, date Claimant's AR filed the SER burial application. Although Claimant's AR contended that she had not been advised of the ten-day limit, she admitted that she had not spoken to any Department staff regarding the SER burial application process prior to July 19, 2013. As such, she was not misled by the Department concerning the SER burial eligibility requirements, including the requirement that application must be submitted within ten business days of the cremation. See ERM 306, p. 1.

Because the SER burial application was not filed within ten days of Claimant/Decedent's burial, the Department acted in accordance with Department policy when it denied the application.

DECISION AND ORDER

Accordingly, the Department's SER decision is AFFIRMED.



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

Date Signed: October 16, 2013

Date Mailed: October 16, 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:

