

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

IN THE MATTER OF:



Reg. No.: 2014-34287
Issue No.: 5008
Case No.: [REDACTED]
Hearing Date: May 15, 2014
County: Oakland (03)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 May 15, 2014, from Walled Lake, Michigan. Participants included the above-named Claimant, [REDACTED], Claimant's mother, testified on behalf of Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's State Emergency Relief (SER) eligibility.

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 an unspecified date, Claimant's adult son died.
2. Claimant's son received \$741/month in ongoing SSI/RSDI payments.
3. On [REDACTED], Claimant applied for SER seeking assistance for the cost of her adult son's funeral.
4. The total cost of the funeral exceeded \$3,000.

5. Funeral costs included \$455 for the funeral director, \$100 for a vault, and \$145 for cemetery/crematory.
6. On [REDACTED], DHS determined that Claimant was eligible to receive \$412 in funeral costs, subject to a \$288 income/asset copayment (see Exhibit 4).
7. On an unspecified date, Claimant made her \$288 copayment and DHS issued payment for \$412.
8. On [REDACTED], Claimant requested a hearing to dispute the failure by DHS to pay \$700 of her son's funeral costs.

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 contained in the Department of Human Services Emergency Relief Manual (ERM).

Claimant requested a hearing to dispute a SER decision concerning her son's funeral costs. It was not disputed that DHS issued a \$412 payment towards Claimant's son's funeral costs. Claimant thought that DHS should have paid \$700. DHS did not do well to support their SER determination.

A Hearing Summary noted Claimant's income as a basis to justify the copayment. As it happened, Claimant's income does not appear to be relevant to the SER determination.

Adults and dependent children who normally live together are in the same SER group. ERM 201 (3/2013), p. 1. For SER burials, the deceased person is an included group member; 18 to 21-year -old children of the deceased parents of the burial group are not. *Id.*

It was not disputed that Claimant's son who passed away was over 21 years old. Thus, there is no known reason that Claimant's income would have factored into an SER determination of her son's burial.

The inaccurate Hearing Summary does not necessarily verify that DHS factored Claimant's income in determining Claimant's son's SER eligibility; an SER budget would.

DHS failed to present a complete SER budget. Thus, speculation and conjecture must be utilized to determine how DHS calculated Claimant's son's SER eligibility. The only income and asset budgets that were presented (Exhibits 1-3) stated that there was no copayment. Evidence discussed during the hearing, suggested that the \$288 copayment was based on Claimant's son's income.

DHS is to use income expected to be received by the decedent and the group members during the 30-day countable income period to determine the income copayment. ERM 306 (10/2013), p. 8.

A group is eligible for non-energy SER services with respect to income if the total combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period does not exceed the standards found in SER Income Need Standards for Non-Energy Services. ERM 208 (10/2013), p. 1. Income that is more than the basic monthly income need standard for the number of group members must be deducted from the cost of resolving the emergency. *Id.* This is the income copayment. *Id.*

It was not disputed that Claimant's son's income was \$741/month. Based on Claimant's SER group size of 1, the income need standard for non-energy services is \$445. *Id.*, p. 5. Thus, Claimant has an apparent income copayment of \$296, a slightly larger copayment than determined by DHS. For purposes of this decision, the smaller copayment calculated by DHS (\$288) will be accepted as the correct income copayment.

At this point in the analysis, there is evidence to justify imposing an income copayment on Claimant's son's funeral costs. However, Claimant's circumstances justify further analysis.

Claimant stated during the hearing, she only expected help with \$700 in funeral costs. It was not disputed that Claimant's son's total funeral cost exceeded \$3,000.

Friends and relatives may supplement the SER burial payment in any amount up to \$4,000 for additional services. BEM 206 (10/2013), p. 8. There must be a signed statement from the friend/relative indicating the amount of their contribution. *Id.* The contribution does not have to be paid prior to the SER payment authorization. *Id.*

DHS did not appear to factor the total cost of Claimant's son's funeral because the SER decision did not address the full \$3,000 cost of Claimant's son's funeral. This factor means that DHS might have paid Claimant's son's funeral prematurely by not requiring documentation of who would pay the full funeral costs.

Friends and relatives may supplement the SER burial payment in any amount up to \$4,000 for additional services. *Id.* Responsible relatives required to make an income and/or asset copayment can designate \$200 of the copayment for this purpose. *Id.* Designating reduces the copayment. *Id.*

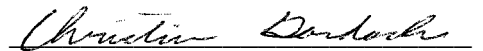
Had DHS factored Claimant's son's full funeral cost, it would appear that \$200 of the \$288 copayment could have been designated by Claimant towards the \$288 copayment. The DHS failure to grant Claimant the opportunity to reduce the income copayment is reversible error.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's son's SER eligibility. It is ordered that DHS perform the following actions:

- (1) reinstate Claimant's SER application dated [REDACTED]; and
- (2) initiate processing subject to the finding that DHS must allow responsible relatives the opportunity to designate \$200 towards any calculated income copayment.

The actions taken by DHS are **REVERSED**.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 5/21/2014

Date Mailed: 5/21/2014

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

CG/hw

cc:

