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

IN THE MATTER OF:

Reg. No.: 14-010399 Issue No.: 5007

Case No.:

Hearing Date: October 9, 2014
County: Wayne (57-Conner)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

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's Authorized Hearing Representative (AHR). After due notice, a telephone hearing was held on October 9, 2014, from Detroit, 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 upon the competent, material and substantial evidence on the whole record, finds as material fact:

- 1. Decedent's AHR applied for SER assistance for the burial of Decedent.
- 2. On August 5, 2014, the Department sent notice of the application denial to Decedent's AHR.
- 3. On August 25, 2014, Claimant's AHR filed a hearing request protesting the denial of SER assistance with Decedent's 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).

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 Decedent's sister, had authority to apply for SER burial benefits for 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. Because Department policy allows the AR to apply for SER burial assistance, it follows that she has the right to request a hearing concerning the denial of such assistance despite the lack of any probate court authorization to act on Decedent's behalf. Because the AR has authority to request a hearing, the issue of whether the Department properly denied the application was considered at the hearing.

Additionally, the Department testified that it denied Decedent's AR's July 19, 2013, application for SER burial assistance for Decedent because one of Decedent's daughter and Decedent's AR had paid the funeral expenses at issue. BEM 103 (March 2013), p. 3, provides that the Department may not issue SER benefits to reimburse expenses incurred or paid without prior Department approval. In this case, Decedent's AR acknowledged that she had paid Decedent's funeral expenses prior to submitting the SER application. Accordingly, the Department acted in accordance with Department policy when it denied the application.

Decedent's AR argued that she was directed to the Department's website for instructions as to how to apply for SER for burial. She further argued that she had complied with all of the requirements for application and that the instructions provided no language warning an applicant that the Department would not reimburse for expenses already paid prior to the Department's approval.

This Administrative Law Judge agrees with Decedent's AR that the Department's prohibition to reimburse for expenses already paid is not presented in the section outlining instructions for applying for SER for a burial. While Decedent's AR has the sympathy of this Administrative Law Judge, this forum does not allow for equitable solutions, and this Administrative Law Judge only has the authority to apply the Department's policy.

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

\boxtimes	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 \boxtimes AFFIRMED \square REVERSED.

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

Date Signed: 10/13/2014

Date Mailed: 10/13/2014

MJB / pf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

