

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

- 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.



Michael J. Bennane
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

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]