

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-013163
Issue No.: 5007
Case No.: [REDACTED]
Hearing Date: January 22, 2015
County: IONIA

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 three-way telephone hearing was held on January 22, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] Chief Investigator for the Ionia County Medical Examiner, and [REDACTED], Ionia County Medical Examiner. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist [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. On September 24, 2014, [REDACTED] applied for SER assistance for the burial of Decedent [REDACTED].
2. On September 25, 2014, the Department sent notice of the application denial to [REDACTED].
3. On October 8, 2014, [REDACTED] 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 Department denied the application because Ms. Reust, the person who completed the application, is not the actual Medical Examiner for Ionia County. ERM 306 (10/1/13) defines the people who can apply for burial assistance. At pages 1-2 it states, in the case of unclaimed bodies (which Ms. Iler was):

Only the following people may apply for SER burial benefits as authorized representatives. In other situations, decedents are unclaimed bodies.

* * *

For unclaimed bodies, the county medical examiner or public administrator.

An unclaimed body is one that is not claimed by a person who has the right to control disposition of the body. The maximum reimbursement for the final disposition of an unclaimed body is \$800.

The county medical examiner or a designated county official may apply for SER burial of an unclaimed body which he or she has offered to at least one of the following universities, but which they have declined:

The listed universities are the [REDACTED], [REDACTED], and [REDACTED]. Testimony on the Claimant's behalf is that the decedent's body was decomposed and had been autopsied, making her unsuitable for donating to a medical school.

Testimony from the Claimant's witnesses establishes that [REDACTED] is the [REDACTED]. He has designated [REDACTED] as his Chief Investigator and authorized her to apply on his behalf for SER. In 2014, [REDACTED] applied for SER 66 times in 13 counties. She has never before had an application denied on the basis that she was not authorized to submit an application. She spends approximately 20 hours per week applying for SER.

The undersigned interprets ERM 306 as limiting the power to the office of the medical examiner, not the individual identified as the medical examiner. Exigencies associated with SER applications would not permit the ME himself to submit all of the applications himself. As stated in MCL 52.201c, "The county medical examiner is in charge of the office of the county medical examiner and may promulgate rules relative to the conduct

of that office.” That statute allows the county medical examiner to delegate any functions of that office.

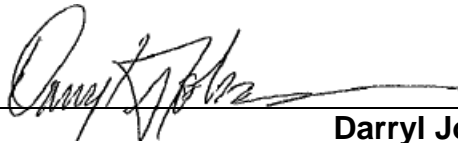
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied the SER burial application.

DECISION AND ORDER

Accordingly, the Department’s SER decision is **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. Reregister Claimant’s September 24, 2014, SER application;
2. Provide Claimant with SER benefits if she is eligible.


Darryl Johnson
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/26/2015**

Date Mailed: **1/26/2015**

DJ/jaf

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 48909-8139

cc:

