

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-015397
Issue No.: 5007
Case No.: [REDACTED]
Hearing Date: February 05, 2015
County: KENT-DISTRICT 1 (FRANKLIN)

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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, a telephone hearing was held on February 5, 2015, from Lansing, Michigan. Participants on behalf of Claimant included his mother, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Family Independence Manager (FIM) [REDACTED].

ISSUE

Did the Department properly deny Claimant's State Emergency Relief Program application for burial services as untimely?

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 September 21, 2014, Claimant passed away. Claimant had been a recipient of assistance benefits through the Department of Human Services.
2. On October 1, 2014, Claimant was buried.
3. On October 7 or 8, 2014, Claimant's mother spoke with Ms. Trompen, Claimant's DHS case worker, over the telephone. Ms. Trompen was informed that Claimant had passed away and was asked about assistance with burial expenses. Ms. Trompen did not comply with the requirement in State Emergency Relief Manual 306 Burials (2013), and tell Claimant's mother that there was a time limit for submitting the application.
4. On October 16, 2014, Claimant's mother submitted an online application for State Emergency Relief Program assistance with burial services.
5. On October 16, 2014, the application was denied as untimely and Claimant's mother was sent a State Emergency Relief Decision Notice (DHS-1419).

6. On October 22, 2014, Claimant's mother submitted a hearing request.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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 Mich Admin Code, R 400.7001 through R 400.7049.

State Emergency Relief Manual 306 Burials (2013) on page 1 states:

DEPARTMENT POLICY

State Emergency Relief (SER) assists with burial when the decedent's estate, mandatory copays, etc. are not sufficient to pay for:

Burial.

Cremation.

Costs associated with donation of a body to a medical school.

Cremation permit fee for an unclaimed body.

Mileage costs for an eligible cremation of an unclaimed body.

Staff Responsibilities

Staff must clearly explain SER burial eligibility requirements and program payment limits to any person making an inquiry. This includes the requirement that the application for SER must be made within 10 business days of burial, cremation or donation.

Application

An application for SER burial must be made no later than 10 business days after the date the burial, cremation or donation takes place.

Who May Apply

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

Any relative - including minors or their authorized representative.

During this hearing, Claimant's mother testified credibly that she spoke to her son's DHS worker, Ms. Trompen, on October 7th or 8th 2014, and was not told that there was a 10 day time limit to apply for assistance with burial expenses. Ms. Trompen was not present at the hearing. The Department did not comply with ERM 306 to notify Claimant's mother of the time limit for submitting the SER burial application. Based on the Department's failure to comply with ERM 306, the October 16, 2014 SER Burial

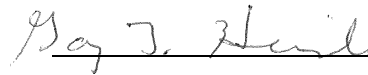
application IS DETERMINED TO BE TIMELY. The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's State Emergency Relief Program application for burial services as untimely.

DECISION AND ORDER

Accordingly, the Department's 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. Reinstate the TIMELY October 16, 2014 SER burial application and process it in accordance with Department policy.
2. Send Claimant's mother a State Emergency Relief Decision Notice (DHS-1419) to provide the eligibility determination made on the TIMELY October 16, 2014 SER burial application.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/27/2015**

Date Mailed: **2/27/2015**

GFH/hj

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:

