

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-015614
Issue No.: 5008
Case No.: [REDACTED]
Hearing Date: February 4, 2015
County: Calhoun (District 21)

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 three-way telephone hearing was held on February 4, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly deny Claimant's application for State Emergency Relief (SER)?

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 August 21, 2014, Claimant's daughter applied for SER to assist with burial expenses for her father.
2. When she applied for SER the daughter had signed an agreement to pay a "copay" of \$ [REDACTED] to the funeral home for additional expenses that would not be covered by SER. (Exhibit A Page 1D.)
3. On August 26, 2014, the Department approved payment of \$ [REDACTED] to the crematory and \$ [REDACTED] to the funeral home. (Exhibit A Page 3.)
4. The daughter reneged on her agreement to pay the balance to the funeral home.

5. On September 24, 2014, [REDACTED] applied for SER for additional funds to be paid to the funeral home. (Exhibit A Pages 4A – 4K.)
6. In a State Emergency Relief Decision Notice dated September 24, 2014, the Department denied [REDACTED] application stating the emergency had already been resolved. (Exhibit A Page 5.)
7. The Department received Claimant's hearing request on October 29, 2014.

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.

The Department's policy with respect to burial assistance is found in ERM 306 (10/1/13). At page 1 it states:

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.

Policy limits the expenses for which relief is available. Those limits are at page 3 or ERM 306:

Covered SER burial services include any goods or services normally provided to bury, cremate or donate a human body, including the following:

- Goods and services that are provided by a funeral director.
- An outside receptacle which is required by the cemetery and which consists of a metal or concrete rough box.
- A single burial space.
- Opening and closing the grave.

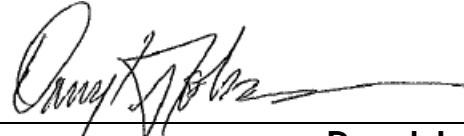
- The use of cemetery equipment.
- Transportation.
- Clothing.
- Clergyman's honorarium.

In response to the daughter's application, the Department paid a fee for the crematory and for the funeral director. Page 10 of ERM 306 lists the maximum payments that can be made. For a cremation without a memorial service the maximum that can be paid is \$█ to the funeral director and \$█ to the crematory. That is what the Department paid. Nothing more is allowed. While it is unfortunate for the funeral home that it will not be paid for services it provided upon the daughter's promise to pay, that burden cannot be shifted to the Department.

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 when it denied Claimant's application for SER.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Signed: **2/6/2015**

Date Mailed: **2/6/2015**

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:

