

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

IN THE MATTER OF:



Reg. No.: 14-011157
Issue No.: 5002
Case No.: [REDACTED]
Hearing Date: December 04, 2014
County: Calhoun (District 21)

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 December 4, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] from the Calhoun County Medical Examiner's Office, Authorized Representative (AR). Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly deny Claimant's State Emergency Relief (SER) application for burial based on a failure to verify or allow the Department to verify information?

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 July 29, 2014, a SER application for burial was filed on Claimant's behalf by the AR.
2. On August 1, 2014, a computer system issue prevented sending an appointment notice to the AR.
3. The Department worker attempted to call the AR several times and left two voice mails.
4. The Department worker received a return call/voicemail from the AR indicating she was leaving on vacation.
5. The Department worker attempted to call the AR back and noted the AR's voicemail stated she was on vacation and would not be checking voicemail.

6. On August 7, 2014, an SER Decision Notice was issued to the AR stating the application was denied based on failing to verify or allow the Department to verify information necessary to determine eligibility for this program.
7. On August 28, 2014, a hearing request was filed on Claimant's behalf contesting the Department's action.

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 (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. ERM 306, 10-1-2013, p. 1.

For unclaimed bodies, the county medical examiner or public administrator may apply for SER burial benefits as an authorized representative (AR). ERM 306, pp. 1-2.

The Department is to conduct an in-person interview with an adult member of the SER group or the authorized representative. ERM 103, 10-1-2013, p. 5.

The SER standard of promptness is 10 calendar days, beginning with the date the signed SER application is received in the local office. The case record must include documentation for any delay in processing the application beyond the standard of promptness. ERM 103 p. 6.

In this case, the Department acknowledged that a computer system error did not allow an interview notice to be printed and issued to the AR. Further the Department did receive a response to the voicemails left for the AR letting the Department know the AR would be out of town on vacation. Lastly, the Department's policy does not require a SER application to be denied as soon as the standard of promptness is up. Rather, the above cited ERM 103 policy only requires the Department to document any delay in processing the application beyond the standard of promptness.

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 Claimant's SER application burial based on a failure to verify or allow the Department to verify information.

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. Re-process the July 29, 2014 SER application and re-determine eligibility in accordance with Department policy.
2. Issue written notice of the determination in accordance with Department policy.
3. Issue a supplement for lost benefits (if any) that Claimant was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/12/2015**

Date Mailed: **2/12/2015**

CL/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:

