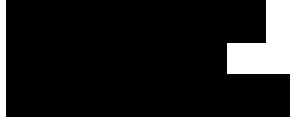


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 15-001385
Issue No.: 5001
Case No.: [REDACTED]
Hearing Date: April 9, 2015
County: Oakland (3) Southfield

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's Authorized Hearing Representative (AHR). After due notice, a telephone hearing was held on April 9, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant's brothers, [REDACTED] and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator [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 November 10, 2014, Claimant's AHR applied for SER assistance for the burial of Decedent.
2. On November 10, 2014, the Department sent notice of the application denial to Claimant's AHR.
3. On January 23, 2015, Claimant's AHR 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 funeral home submitted a Statement of Funeral Goods and Services Selected. (Exhibit A Page 3.) Included in the Statement were charges of \$ [REDACTED] for services, \$ [REDACTED] for merchandise, a \$ [REDACTED] "special charge" and \$ [REDACTED] for "cash advances." Sales tax of 6% was charged on the merchandise, adding \$ [REDACTED] to the costs. The total bill from the funeral home was \$ [REDACTED]

The applicable policy for burial assistance is found in ERM 306 (10/1/13). SER assists with burial when the Decedent's estate, mandatory copays, etc. are insufficient to pay for the burial or cremation. There are limits on the services that are covered. Those are found at page 3 of ERM 306.

COVERED SERVICES

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.

A review of the charges from the funeral home show that they provided several goods and services, which are found in Items A and B of Exhibit A Page 3. Those total \$ [REDACTED] plus \$ [REDACTED] in sales tax. Also charged was \$ [REDACTED] for the clergy. The total amount that would fall within the scope of Covered Services is \$ [REDACTED]

At page 10 of ERM 306 is a table showing the maximum benefits that are available in SER. For a cremation with a memorial service, up to \$600.00 is available. Friends and family may supplement the SER burial payment in any amount up to \$4,000.00 for additional services. (ERM 306 at page 8.) If the total cost of burial exceeds the SER

maximum payment allowed, plus the voluntary contribution, the application must be denied. Id. The Department provides the following example:

Example: The decedent will be returned to a foreign country for burial. Local funeral director charges total \$2800. Friends and family will also pay air-shipping charges of \$2100. DHS payment maximum is \$579. (There are no local cemetery or vault charges.) The total charges are \$4900, which leaves \$4321 as a family contribution. This exceeds the DHS maximum allowable, so no SER payment is made.

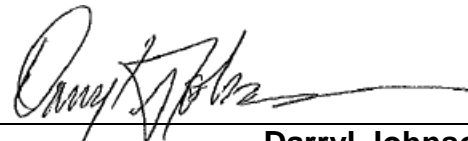
Inasmuch as the total Covered Services of \$ [REDACTED] exceeds the maximum SER benefit of \$ [REDACTED] and the maximum allowable family contribution of \$ [REDACTED] the application must be denied.

Testimony was offered that the funeral home was willing to accept the \$ [REDACTED] SER payment if it were approved, as well as testimony that the funeral home indicated this is the way they routinely process requests for SER in other cases. It is curious why they would be willing to accept \$ [REDACTED] from the Department as payment-in-full, but require \$ [REDACTED] if SER is not approved. That is an issue beyond the authority of the undersigned to address. Whether other applications have been approved or not is also not sufficient to change the inescapable conclusion in this case. Neither the Department nor the Administrative Law Judge has any authority to deviate from policy, regardless of the perceived wisdom or merits of the policy, or the sympathy toward the Decedent's family.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of acted in accordance with Department policy when it denied the SER burial application.

DECISION AND ORDER

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



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

Date Signed: **4/10/2015**

Date Mailed: **4/10/2015**

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:

