

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

IN THE MATTER OF:

██████████
██████████
██████████████████

MAHS Reg. No.: 15-022432
Issue No.: 5001
Agency Case No.: ██████████
Hearing Date: February 11, 2016
County: Wayne-District 19
(Inkster)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Petitioner'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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on February 11, 2016, from Detroit, Michigan. Petitioner appeared and represented himself. The Department was represented by ██████████, Hearing Facilitator.

ISSUE

Did the Department properly deny Petitioner's request for State Emergency Relief (SER) assistance with burial costs?

Did the Department properly process Petitioner's request for Emergency Services (ES) funds for the purchase of a headstone?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner's mother died on October 16, 2015, and burial services were performed on October 23, 2015.
2. On November 17, 2015, the Department received Petitioner's SER application for assistance with burial/cremation service expenses (Exhibit A) and a request for ES funds for the purchase of a head stone (Exhibit C).
3. On November 19, 2015, the Department sent Petitioner a SER Decision Notice denying the SER application for expenses for the funeral director, vault, and

cemetery/crematory because the application was filed more than 10 business days after the date of burial/cremation (Exhibit B).

4. On November 30, 2015, the Department received Petitioner's request for hearing disputing the Department's SER decision.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

As a preliminary matter, it is noted that, for SER assistance with burial services, any relative of the client can apply as an authorized representative. ERM 306 (October 2015), p. 1. Therefore, Petitioner, as the decedent's son, had authority as an authorized representative to apply for SER burial benefits for his mother. ERM 102 (October 2013), p. 2, expressly provides that "any applicant" for SER services has the right to request a hearing regarding the Department's SER action. Because Department policy allowed Petitioner to apply for SER burial assistance, it follows that he has the right to request a hearing concerning the denial of such assistance. Accordingly, the issue of whether the Department properly denied the SER application was considered at the hearing.

The Department testified that Petitioner's SER application for burial assistance was denied because he filed the application more than 10 days after the burial. Department policy provides that an application for SER burial must be made no later than 10 business days after the date the burial, cremation or donation takes place. ERM 306, p. 1; ERM 103 (October 2015), p. 2.

In this case, Petitioner's mother died on October 16, 2015, and her burial/cremation took place on October 23, 2015. Ten business days from the date of burial/cremation is Friday, November 6, 2015. Petitioner filed the SER application for burial services on November 17, 2015 (Exhibit A). Because more than 10 business days lapsed from the date of burial/cremation to the application filing date, the Department acted in accordance with Department policy when it denied the application. While Petitioner explained that he was overwhelmed by his mother's death, unfortunately, Department policy does not provide for any exceptions to the ten-day rule.

There was also evidence that Petitioner requested ES funds for the purchase of a headstone. When SER does not cover the requested service or when the amount needed exceeds the SER payment limit, ES funds may be available to provide assistance. ERM 209 (October 2015), p. 1. Department policy provides that ES contribution towards a burial is limited to the cost of an oversized casket and no other burial costs are allowed. ERM 209, p. 3. The policy further provides that ES funds may not be used to pay for any item or service that is not expressly identified as a covered service. ERM 209, p. 5. Therefore, ES funds may not be used for the purchase of a headstone. Although it is unclear that the Department processed Petitioner's ES request, the error is harmless in light of Petitioner's ineligibility for ES funds.

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 Petitioner's request for SER and ES assistance.

DECISION AND ORDER

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



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **2/19/2016**

Date Mailed: **2/19/2016**

ACE / tlf

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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