



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: April 27, 2016
MAHS Docket No.: 16-001313
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 March 29, 2016, from Lansing, Michigan. Petitioner was represented by his court appointed Public Guardian, [REDACTED]. The Department was represented by Eligibility Specialist [REDACTED] and Family Independence Manager [REDACTED]. Testimony was received from all participants. Department's Exhibit A, pages 1 - 15 was admitted into evidence.

ISSUE

Did the Department properly deny Petitioner's December 29, 2015, State Emergency Relief (SER) application for burial services?

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 December 29, 2015, the State Emergency Relief (SER) application for burial services was submitted.
2. On December 30, 2015, an SER Verification Checklist (DHS-3503-SER) was issued requesting verification of Petitioner's assets.
3. On January 5, 2016, Petitioner's guardian reported that Petitioner had a bank account with \$ [REDACTED] in it.

4. On January 5, 2016, a State Emergency Relief Decision Notice (DHS-1419) was issued denying the application.
5. On January 29, 2016, the guardian submitted a hearing request.

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.

In this case Petitioner had a bank account which contained \$ [REDACTED] but the account had a beneficiary to whom the bank released the funds upon Petitioner's death. State Emergency Relief Manual (ERM) 205 Assets (10-1-2015), states:

ASSET LIMITS

Burial Assets

For burials, if the decedent is the only group member, there is no asset exclusion. The decedent's homestead, vehicle, bank accounts, etc. are all countable if there are no surviving group members or if the asset is not jointly owned with rights of survivorship.

Jointly Owned Assets

Burials

For burials, if the deceased jointly owns an asset and the asset ownership document indicates the joint owner has rights or survivorship, the asset is not counted for the SER burial.

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 Petitioner's December 29, 2015, State Emergency Relief (SER) application for burial services.

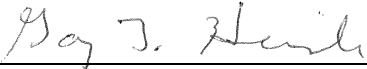
DECISION AND ORDER

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. Reregister Petitioner's December 29, 2015 State Emergency Relief (SER) application.
2. Process the application in accordance with Department policy.
3. Issue a current State Emergency Relief Decision Notice (DHS-1419) upon reprocessing the application.

GH/nr



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

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

DHHS

[REDACTED]

Petitioner

[REDACTED]

Authorized Hearing Rep.

[REDACTED]