



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: December 28, 2016
MAHS Docket No.: 16-017287
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 December 21, 2016, from Lansing, Michigan. The Petitioner was represented by her daughter, [REDACTED] [REDACTED]. The Department of Health and Human Services (Department) was represented by Assistance Payments Supervisor [REDACTED] [REDACTED] and Eligibility Specialist [REDACTED] [REDACTED].

ISSUE

Did the Department properly deny Petitioner's application for State Emergency Relief (SER) and close Petitioner's Food Assistance Program (FAP) benefits?

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 was an on-going FAP recipient.
2. Petitioner died on October 3, 2016.
3. At the time of her death, Petitioner had FAP benefits available.
4. On October 13, 2016, the daughter paid the funeral director \$ [REDACTED] for funeral good and services. (Exhibit 1 Page 14.)

5. On October 16, 2016, Petitioner's daughter applied for SER (Exhibit 1 Pages 2-13), requesting assistance with the cremation costs.
6. A SER Verification Checklist (Pages 20-21) was mailed to the daughter, seeking verification of the death and funeral expenses.
7. A Notice of Case Action (Pages 23-24) was mailed on October 24, 2016, closing Petitioner's FAP effective November 1, 2016, because she was the sole member of her group, and her needs could no longer be considered in determining the group's eligibility.
8. A SER Decision Notice was also mailed (Page 25) on October 24, 2016, denying the SER application because the funeral expenses had already been paid.
9. The Department received a hearing request from the daughter on November 9, 2016, protesting the closure of the FAP and the denial of the SER.

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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

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 was the only member of her group and therefore she was the only person authorized to use her FAP. As explained in BAM 220 (1/1/17) p. 2-3, Bridges will automatically notify a client in writing if factual information is received to confirm a recipient's death.

The applicable policy for burial assistance is found in ERM 306 (10/1/15). SER assists with burial when the decedent's estate, mandatory copays, etc. are insufficient to pay for the burial or cremation. Petitioner's daughter credibly testified that the funeral director refused to provide any services unless he was paid in full, up front. The

daughter further testified that she is disabled and living on a limited income in California. She had to charge the \$ [REDACTED] for the services on her credit card, which she then hopes to repay out of her income of less than \$ [REDACTED] per month. She did so because the morgue was calling her and pressing her to do something with her mother's body.

ERM 103 (10/1/15) p. 1 requires an application for burial services to be made no later than 10 business days after the burial or cremation. Any person with the legal right to claim the body may be the authorized representative. At p. 2, ERM 103 says that "certain conditions must be met before the SER can be issued to help individuals and families whose health and safety are threatened." In such cases, SER cannot be issued to reimburse expenses incurred or paid without prior department approval, and the SER payment must resolve the emergency. The Department interprets that policy to prohibit it from paying for any funeral expenses that have already been paid. However, the introductory sentence of that section must be considered: this portion of the policy pertains to "families whose health and safety are threatened." When someone is dead and sitting in a morgue, there is no threat to health or safety.

In this case, the daughter was in an impossible position. Her mother was deceased, and the body was in the morgue. The morgue was insisting that something be done. The funeral director would not do anything without being paid up front. The daughter, who is legally blind, was in California, and attempting to resolve the problem.

ERM 306 provides the policy specific to burials. "Responsible relatives" (spouse, parents of minor children) can be required to make payments toward the funeral expenses if they were living with the decedent at the time of death. Here, the daughter was not living with the decedent, and therefore she is not a "responsible relative". The Department is to determine the assets of the decedent and any responsible relatives that can be used to pay the expenses. The Department's exhibit shows only one asset of \$ [REDACTED] (Exhibit 1 Page 15) in a bank account. The Department can provide SER if an applicant has a prepaid funeral contract. ERM 306, p. 6. Friends and relatives may supplement the SER burial payment in any amount up to \$ [REDACTED] for additional services. "The contribution does not have to be paid prior to the SER payment authorization." Implicit in that statement is the anticipation by the Department that voluntary contributions CAN be made prior to the SER payment authorization.

According to the Table in ERM 306, p. 10, the Department will pay a maximum of \$ [REDACTED] for a cremation with a memorial service. Petitioner's cremation cost \$ [REDACTED]

As compelling as this case is, and as much as it cries out for an exception to the policy, the policy simply does not allow for an exception. Payments will be made "only if it will resolve the emergency." ERM 306, p. 9. Because the "emergency" had already been resolved, there was nothing the Department could do. Having to carry a balance on her credit card does not constitute an emergency. Even though friends and family can make voluntary contributions which do not have to be paid prior to the SER payment authorization, in this case the family member (the daughter) made a voluntary

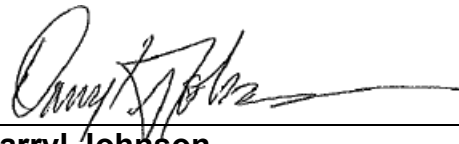
contribution that paid the entire bill. At that point, there was nothing left for the Department to pay.

DECISION AND ORDER

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 closed Petitioner's FAP and denied the application for SER.

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

DJ/mc



Darryl Johnson
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]