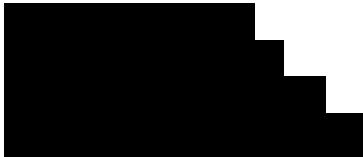




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: April 25, 2016
MAHS Docket No.: 16-002793
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on April 19, 2016, from Lansing, Michigan. Participants on behalf of Petitioner included his authorized hearing representative [REDACTED] [REDACTED] (Hearing Facilitator) represented the Department of Health and Human Services (Department).

ISSUE

Did the Department of Health and Human Services (Department) properly deny the Petitioner's State Emergency Relief (SER) application?

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 February 2, 2016, the Petitioner's representative contacted the Department with questions about the requirements of applying for State Emergency Relief (SER) benefits for assistance with burial expenses. Exhibit A, p 3.
2. On February 5, 2016, the Department received the Petitioner's State Emergency Relief (SER) application seeking assistance with burial expenses. Exhibit A, p 3.
3. On February 5, 2016, the Department sent the Petitioner a SER Verification Checklist (DHS-3503-SER) requesting verification of all bank accounts by February 12, 2016. Exhibit A, p 5.

4. On February 12, 2016, the Department notified the Petitioner that it had denied his State Emergency Relief (SER) application.
5. On February 22, 2016, the Department received the request for a hearing submitted by the authorized representative protesting the denial of his State Emergency Relief (SER) application. Exhibit A, p 1.

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.

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.

Department of Health and Human Services Emergency Relief Manual (ERM) 306 (October 1, 2015), p 1.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (July 1, 2015), p 8.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify

information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (January 1, 2016), pp 1-9.

On February 5, 2016, the Department received a SER application requesting assistance with the Petitioner's burial expenses. On February 5, 2016, the Department sent the Petitioner's representative a SER Verification Checklist (DHS-3503-SER) requesting verification of bank accounts. On February 12, 2016, the Department had not received verification of the Petitioner's bank accounts and it notified his representative that it had denied his SER application.

The Petitioner's representative testified that she was treated rudely by Department employees and was not given the opportunity to ask questions about what was necessary for a SER application to be approved. The Petitioner's representative testified that the required information would have been provided to the Department if she understood what was necessary.

A complaint as to alleged misconduct or mistreatment by a state employee shall not be considered through the administrative hearing process, but shall be referred to the department personnel director. Mich Admin Code, R 792.11002.

This Administrative Law Judge finds that all countable assets must be verified to accurately determine a person's eligibility for SER benefits. The representative failed to establish that sufficient verification of assets was provided to the Department in a timely manner.

Although the SER application was denied based on a failure to verify assets, the Petitioner's representative failed to establish that she is a person eligible to apply for burial benefits.

Only the following people may apply for SER burial benefits as authorized representatives. In other situations, decedents are unclaimed bodies.

- Any relative - including minors or their authorized representative.
- Person named in decedent's will to arrange burial.
- Special administrator appointed by probate court.
- Legal guardian who was appointed by probate court.
- Person who had durable power of attorney at the time of death.
- Funeral director with written authorization provided by a relative who is:
 - Incapable due to illness.
 - Unable due to location.

- For unclaimed bodies, the county medical examiner, their designee or the public administrator.

ERM 306, pp 1 – 2.

The Petitioner has the burden of establishing eligibility to receive benefits. This Administrative Law Judge finds that the Petitioner's representative failed to establish that she is a person eligible to apply for SER burial benefits on behalf of the Petitioner under ERM 306. Therefore, if the Department had not denied the application for failure to verify assets, the Department would have been required to deny benefits based on a lack of authority to submit the application on the Petitioner's behalf.

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 the Petitioner's State Emergency Relief (SER) application.

DECISION AND ORDER

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

KS/las



Kevin Scully
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]

[REDACTED]

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED]