



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: June 6, 2016
MAHS Docket No.: 16-004503
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 May 24, 2016, from Lansing, Michigan. Participants on behalf of Petitioner included [REDACTED] (funeral home director). [REDACTED] (Long Term Care Specialist) represented the Department of Health and Human Services (Department). Witnesses on behalf of the Department included [REDACTED] (Assistance Payments Supervisor).

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 22, 2016, the Department received the Petitioner's State Emergency Relief (SER) application that was submitted by [REDACTED]. Exhibit A, pp 2 – 5.
2. On March 2, 2015, the Department sent [REDACTED] a SER Verification Checklist (DHS-3503-SER) requesting verification of the Petitioner's bank accounts by March 9, 2015. Exhibit A, pp 7 – 8.
3. On March 10, 2016, the Department denied the State Emergency Relief (SER) application. Exhibit A, p 13.

4. On April 4, 2016, the Department received the Petitioner's request for a hearing protesting the denial of the 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.

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.

Department of Health and Human Services Emergency Relief Manual (ERM)
306 (October 1, 2015), pp 1 – 2.

On February 22, 2016, the Department received a SER application requesting assistance with burial expenses that was submitted by [REDACTED], the funeral director for the Petitioner. No evidence was presented on the record that the Department received written authorization provided by a relative of the Petitioner who is incapable of submitting an SER application due to illness, or who is unable to submit an SER

application do to location. [REDACTED] does not meet the criteria listed in ERM 306 to qualify as a person authorized to submit an SER application on behalf of the Petitioner without written authorization of a relative of the Petitioner.

The Petitioner has the burden of establishing eligibility to receive benefits, and in this case, her eligibility to apply for SER benefits has not been established because the application was not submitted by a person with the proper authority to submit the application. Therefore, the Department's denial of the State Emergency Relief (SER) is upheld.

In the alternative, if [REDACTED] is found to be a person authorized to submit a SER application for burial benefits, the denial of that application remains a proper application of Department policy.

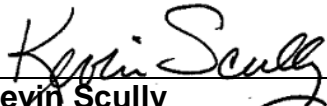
On March 2, 2015, the Department [REDACTED] a SER Verification Checklist (DHS-3503-SER) requesting verification of the Petitioner's bank accounts. The Department will deny an SER application where the total countable value of cash and non-cash assets prior to exclusions exceed the SER payment maximum for burials. ERM 306, p 5. The Department requested verification of the Petitioner's bank accounts to accurately determine his countable assets. When verification of the bank accounts was not received in a timely manner, the Department denied the SER application. The fact that [REDACTED] lacked the authority to access the Petitioner's bank account did not relieve her of the duty to provide this information to establish eligibility.

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]

Petitioner

[REDACTED]