



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: October 3, 2016
MAHS Docket No.: 16-011992
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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 hearing was held on September 28, 2016, from Lansing, Michigan. The Petitioner was represented by Public Administrator, [REDACTED]. The Department of Health and Human Services (Department) was represented by Family Independence Manager, [REDACTED].

PROCEDURAL HISTORY

This matter was originally scheduled for September 6, 2016. On September 8, 2016, the Michigan Administrative Hearing System received a request for adjournment from Public Administrator, [REDACTED]. On September 12, 2016, Administrative Law Judge Marya Nelson-Davis issued an Adjournment Order. The matter was rescheduled for September 28, 2016 at 8:30 AM, and the hearing proceeded as rescheduled. The following exhibits were offered and admitted into evidence:

Department: A--May 18, 2016, State Emergency Relief (SER) Decision Notice.
B--August 9, 2016, SER Decision Notice.

Petitioner: None.

ISSUE

Did the Department properly take action to deny the Petitioner's application for State Emergency Relief (SER) 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. On May 16, 2016, the Public Administrator submitted an application for SER.
2. On May 18, 2016, the Department sent the funeral home a SER Decision Notice specifying a total copayment of \$ [REDACTED] resulting from \$0 unmet required payment, \$0 prorated amount, \$ [REDACTED] contribution from the Petitioner and/or other sources, \$0 death benefits and \$0 funeral contracts. This notice also specified that no payments would be made until the Public Administrator provided proof that a copayment had been made to the funeral home.
3. It is not contested that the Department did not send the Public Administrator the May 18, 2016, SER decision notice and that it was sent to the funeral home instead. As such, the SER Decision Notice expired on June 14, 2016.
4. Per the Departments hearing summary, on June 15, 2016, the Application was denied for failure to meet the client copayment obligation of \$ [REDACTED]. Also on June 15, 2016, the Public Administrator was informed by the Department that he would need to reapply for SER.
5. On June 23, 2016, the Public administrator submitted a second application for SER.
6. On July 7, 2016, the Department sent the Public Administrator an email indicating that there was a system error preventing the Department from getting a correct eligibility determination.
7. On August 9, 2016 the Department sent the Public Administrator a SER Decision Notice denying the Public Administrator's second assistance application, because the application was filed more than 10 business days after the date of cremation.
8. On August 16, 2016, the Department received the Public Administrator's written hearing request protesting the SER denial and indicating that the Department failed to send him notices regarding the Department's SER eligibility notices.

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.

ERM 306 (2015) p. 1, provides that department staff must clearly explain SER burial eligibility requirements and program payment limits to any person making inquiry. This includes the requirement that the application for SER burial must be made within 10 business days of burial, cremation or donation. In this case, it is not contested that the Public Administrator did not receive the May 18, 2016, SER Decision Notice. Therefore, the Public Administrator was never notified of the program payment limits. The Public Administrator cannot be held to the requirement that the application must be made within 10 business days of burial, cremation or donation, as the Department did not notify the Public Administrator of its determination. As such, this Administrative Law Judge concludes that the Department staff did not clearly explain the SER burial eligibility requirements and program payment limits to the Public Administrator.

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 did not act in accordance with Department policy when it took action to deny the Petitioner's application for SER.

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, INCLUDING ISSUING A NEW ELIGIBILITY DETERMINATION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine the Petitioner's eligibility for SER back to the May 16, 2016 application, and
2. Issue the Petitioner any supplement she may thereafter be due, and
3. Issue a Bridges Help Desk tickets to expedite this process and to disregard any computer requirement that the application must be made within 10 business days of burial, cremation or donation.

SH/nr



Susanne E. Harris
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]