



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: October 14, 2016
MAHS Docket No.: 16-013026
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 October 11, 2016, from Lansing, Michigan. The Petitioner was represented by attorney [REDACTED]. The Department of Health and Human Services (Department) was represented by Hearings Facilitator [REDACTED].

ISSUE

Did the Department properly deny Petitioner's application for State Emergency Relief (SER)?

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 August 17, 2016, an application was submitted for SER to assist with Petitioner's burial expenses.
2. On August 18, 2016, the Department mailed to Petitioner an SER Verification Checklist (Exhibit 1 Page 6) requesting a statement of funeral goods and services, or an actual bill or written statement from the provider, with a due date of August 25, 2016.

3. On August 25, 2016, the Department uploaded the statement from the funeral director for the expenses associated with the funeral, but the worker was unable to see the statement because it had not been indexed with Petitioner's electronic file.
4. On August 26, 2016, the Department mailed a SER Decision Notice (Pages 9-11) informing Petitioner's attorney that the SER request had been denied because he "failed to verify or allow the Department to verify information necessary to determine eligibility for this program."
5. On September 9, 2016, the Department received a hearing request from Petitioner's attorney, protesting the denial.

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.

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. There are limits on the services that are covered. Those are found at page 3 of ERM 306.

COVERED SERVICES

Covered SER burial services include any goods or services normally provided to bury, cremate or donate a human body, including the following:

- Goods and services that are provided by a funeral director.
- An outside receptacle which is required by the cemetery and which consists of a metal or concrete rough box.
- A single burial space.
- Opening and closing the grave.

- The use of cemetery equipment.
- Transportation.
- Clothing.
- Clergyman's honorarium.

The Department's witness testified that the application was denied because (a) the Department had not received the written documentation to verify the expense, and (b) the applicant had not completed an interview with the Department. ERM 306 explains the verification requirements at pages 9-10:

VERIFICATION

- The case record must contain a statement of goods and services or the equivalent showing an itemization of all services provided, charges and payments made or expected. It must be signed by an employee of the funeral home and the person making the SER application. Funeral providers may submit more than one invoice to cover a decedent's funeral.

Note: Do not duplicate payment or authorize payment for services/items not included on the invoice.

Note: No additional SER payments are made for oversize caskets; see ERM 209 and ES Program Standards.

- The case record must contain a signed statement from the friend/relative indicating the amount of their contribution. This must be obtained before SER payment may be made. If the Statement of Goods and Services is properly itemized and signed by the applicant and funeral director (or designee) it would be considered the signed statement of contribution.
- If there is a surviving spouse who resided with the deceased person at the time of death, verification of the Social Security lump sum death benefit must be obtained prior to approval for any SER payment. Social Security Administration or the funeral director must provide a written statement verifying the amount expected.

- Value of the estate - written statements from knowledgeable sources (car dealers, tax statements, financial planners, attorneys, etc.).
- The case record must contain a signed and dated statement, on official letterhead, from the county medical examiner when a designee has been authorized to make burial or cremation arrangements for an unclaimed body.

The witness testified that the Department had, in fact, received the statement from the funeral director, and that it was sufficient to verify the expense. For some reason, the worker who processed the application denied the application because the statement was not indexed to the applicant's electronic case and therefore was not visible when the denial was mailed.

There was testimony that several calls were made to the attorney's office to conduct a telephone interview. There was also testimony that the attorney and his wife (who handles the burial expense applications) were on vacation at the time and, when they returned, she tried to call the worker but was only able to reach a voicemail box that was no longer accepting messages.

Admitted into evidence was a Notice of Case Action (Pages 13-16) dated August 18, 2016, informing Petitioner that his FAP was closed effective September 1, 2016, because he had died. That is important in this case because it verifies that Petitioner was an active recipient of FAP at the time of the application. ERM 103 (10/1/15) details the SER application procedures. An in-person interview is waived for applicants who are active for another Department program, although "a phone interview is required and the Individual Interviewed screen must be completed for each SER." But, if an applicant cannot be reached and no interview scheduled, an Appointment Notice "must be sent informing the applicant of the interview requirement." There is no evidence that the Department mailed an Appointment Notice, DHS-0170.

In this case, the Department had a responsibility to inform the applicant's representative that an interview was required. When they were unable to reach the representative, they had a responsibility to send an Appointment Notice. They did not do that. Furthermore, if a worker is leaving messages for applicants or their representatives, then it is incumbent upon the Department to either have someone available at the Department to promptly answer returned calls, or at least have a functioning voicemail system that is capable of taking messages and then promptly return those calls.

As stated at ERM 103 p. 6,

The SER standard of promptness is **10 calendar days**, beginning with the date the signed SER application is received in the local office. The case record must

include documentation for any delay in processing the application beyond the standard of promptness.

If the SER group is cooperating in providing the verification, the application is to be pending.

To summarize this case, the Department mailed a verification notice, requesting verification of the burial expenses. The Department did not notify the applicant's representative that a telephone interview was required. The expenses were verified by the deadline, and therefore that is not an appropriate basis for denying the application. As for the telephone calls, the Department left messages asking the representative to call back, but when she did so, the Department did not connect her with anyone who could conduct the interview. It did not even allow her to leave a message by which she could say that she was trying to complete the interview. In the end, the Department erred.

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 denied Petitioner's SER application.

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. Redetermine Petitioner's eligibility for SER, and provide SER benefits if Petitioner is found to be eligible.

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]

Counsel for Petitioner

[REDACTED]