



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: January 4, 2017
MAHS Docket No.: 16-016834
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 8, 2016, from Lansing, Michigan. The Petitioner was represented by [REDACTED] [REDACTED] son and Authorized Hearing Representative (AHR). [REDACTED] [REDACTED] the Petitioner, appeared and testified. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Eligibility Specialist (ES) and Hearing Coordinator.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-24.

ISSUE

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

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's husband passed away on [REDACTED]. (Exhibit A, p. 7)
2. On October 1, 2016, Petitioner applied online for SER for burial assistance. (Exhibit A, pp. 2-16)

3. On the SER application it was reported that: the total cost of burial/cremation is \$ [REDACTED] and expected death benefits included \$ [REDACTED] life insurance and [REDACTED] Social Security death benefits. (Exhibit A, p. 7)
4. On October 4, 2016, the Department received a Statement of Funeral Goods and Services Selected showing the total funeral home charges would be \$ [REDACTED] (Exhibit A, p. 23)
5. On October 10, 2016, a telephone interview was completed with Petitioner for the SER application. (Exhibit A, p. 18)
6. On October 12, 2016, a Benefit Notice was issued to Petitioner stating SER was denied based on a failure to complete an in-person interview. (Exhibit A, p. 19)
7. On October 31, 2016, Petitioner filed a hearing request contesting the denial. (Exhibit A, p. 1)
8. On November 14, 2016, the Department re-registered the SER application after realizing an in-person interview was not necessary. (ES Testimony)
9. On November 16, 2016, a SER Decision Notice was issued stating the request for assistance was denied because the total cost of the burial exceeds the maximum family contribution plus the maximum SER payment. (Exhibit A, pp. 21-22)

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.

SER Online Applicants

The in-person interview is waived for applicants who are active for another MDHHS program or have applied online through MI Bridges; however a phone interview is required and the Individual Interviewed screen must be completed for each SER.

COPAYMENTS

Responsible Relatives

Determine mandatory copayments from responsible relatives based on whether the decedent and the relatives were living together at the time of death; see ERM 201, SER Group Composition. Responsible relatives are:

- Spouse for spouse.
- Parents for children and stepchildren under age 18.

Assets

Combine the decedent's and responsible relatives' cash and non-cash assets to determine the asset copayment.

Allow a \$50 cash asset exclusion if there is a surviving group member.

Allow a \$1,750 non-cash asset exclusion if there is one surviving group member; \$3,000 if there are two or more.

If a surviving group member is a current recipient of FIP, SDA, SSI, MA or FAP, there is automatic eligibility on the basis of **non-cash** assets only. See ERM 205 for more information on assets.

A decedent who is the only SER group member does **not** qualify for any asset exclusion; see Estates in this item.

Examples:

- The deceased is an adult with a surviving spouse. Allow a \$50 cash asset exclusion plus a \$1,750 non-cash asset exclusion.
- The deceased is a child with two surviving parents/group members. Allow a \$50 cash asset exclusion plus \$3,000 non-cash asset exclusion.
- The deceased is an adult with no surviving spouse. There is no asset exclusion of any kind.

Asset Denial

Deny the application if the total countable value of cash and non-cash assets prior to exclusions exceed the SER payment maximum for burials. When assets exceed the payment maximum, the group cannot designate any of the assets as a supplement.

Example: The group's countable assets total \$1500. Deny SER as the assets exceed the payment maximum of \$700.

Benefits

The following death benefits are deducted from the SER payment:

- Life insurance, when the beneficiary is a responsible relative.
- Social Security (RSDI) lump sum death payments if there is a surviving spouse.
- Veterans burial benefits.
- Soldiers and Sailors Fund benefits.
- Fraternal or social organization donations.
- Prearranged funeral agreements.

ERM 306, October 1, 2015, pp. 4-6

Voluntary Contributions

Friends and relatives may supplement the SER burial payment in any amount up to \$4,000 for additional services. There must be a signed statement from the friend/relative indicating the amount of their contribution. The contribution does not have to be paid prior to the SER payment authorization.

Responsible relatives required to make an income and/or asset copayment can designate \$200 of the copayment for this purpose. Designating reduces the copayment.

Example: Mr. passes away. There is a total income and asset copayment of \$500. \$200 is designated as a supplement, reducing the copayment to \$300. The MDHHS burial payment is reduced by \$300. Other friends and

relatives could contribute up to \$3,800 for additional services (\$4,000 maximum minus the \$200 designated copayment).

Denial

Deny SER if contributions exceed \$4,000 **OR** if the total cost of the burial exceeds the SER maximum payment allowed plus the voluntary contribution.

Example: The decedent will be returned to a foreign country for burial. Local funeral director charges total \$2800. Friends and family will also pay air-shipping charges of \$2100. MDHHS payment maximum is \$579. (There are no local cemetery or vault charges.) The total charges are \$4900, which leaves \$4321 as a family contribution. This exceeds the MDHHS maximum allowable, so no SER payment is made.

ERM 306, October 1, 2015, pp. 8-9
(Underline added by ALJ)

Effective October 1, 2015, the SER maximum payments for burial services for a burial with memorial service are \$█ payment to funeral director, \$█ payment to cemetery or crematory, and \$█ payment for vault. Therefore, the total SER maximum payment for burial services for a burial with memorial is \$█. ERM 306, October 1, 2015, p. 10.

In this case, Petitioner applied online for SER for burial assistance for her husband on October 1, 2016. (Exhibit A, pp. 2-16) On the SER application it was reported that: the total cost of burial/cremation is \$█ and expected death benefits included \$█ life insurance and \$█ Social Security death benefits. (Exhibit A, p. 7) On October 4, 2016, the Department received a Statement of Funeral Goods and Services Selected showing the total funeral home charges would be \$█ (Exhibit A, p. 23)

On October 12, 2016, a Benefit Notice was issued to Petitioner stating SER was denied based on a failure to complete an in-person interview. (Exhibit A, p. 19) On October 31, 2016, Petitioner filed a hearing request contesting the denial. (Exhibit A, p. 1) The above cited ERM 103 policy does not actually require an in-person interview under these circumstances. A telephone interview was completed with Petitioner for the SER application. (Exhibit A, p. 18) Accordingly, on November 14, 2016, the Department re-registered the SER application after realizing an in-person interview was not necessary. (ES Testimony)

Upon re-processing the SER application, the Department determined that the SER application still had to be denied. On November 16, 2016, a SER Decision Notice was issued stating the request for assistance was denied because the total cost of the burial exceeds the maximum family contribution plus the maximum SER payment. (Exhibit A, pp. 21-22)

Petitioner's son noted that the November 16, 2016, SER Decision Notice indicates that the amount request was the full \$ [REDACTED] (Exhibit A, p. 21). However, they are only asking for the remainder of what is owed to the funeral home, \$ [REDACTED] and for the burial plot, \$ [REDACTED]. It was noted that Petitioner's sons have been paying toward the burial plot. (Son Testimony)

The ES explained that the Statement of Funeral Goods and Services Selected indicated that the total funeral home charges of \$ [REDACTED] would be due. Therefore, the Department entered this for the requested amount. (Exhibit A, p. 23; ES Testimony) The documentary evidence does establish that the Department had been aware that the total of the expected death benefits would be \$ [REDACTED] (Exhibit A, pp. 7 and 24). However, the ES indicated that regardless of whether the Department entered the approximately \$ [REDACTED] from the total funeral charges or the approximately \$ [REDACTED] Petitioner is actually seeking as the amount being requested for the SER application, there is still a limit that the total funeral home charges must be under. (ES Testimony)

Under the above cited ERM 306 policy, the Department is to deny when the total cost of the burial exceeds the SER maximum payment allowed plus the voluntary contribution. In this case, that would be when the total cost of the burial exceeds \$ [REDACTED] (\$ [REDACTED] SER maximum payment + \$ [REDACTED] maximum allowable voluntary contribution). The SER application indicated the total cost of the burial would be \$ [REDACTED] and the Statement of Funeral Goods and Services Selected showed the total funeral home charges would be \$ [REDACTED] (Exhibit A, pp. 7 and 23). Accordingly, the SER application was properly denied because total cost of the burial exceeds the SER maximum payment allowed plus the voluntary contribution.

Additionally, it appears that under the above cited ERM 306 policy addressing responsible relatives, assets, and benefits, a denial would also likely result based on the value of the expected death benefits.

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 denied Petitioner's SER application upon re-processing.

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



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

CL/mc

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]

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED]