



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: March 31, 2017
MAHS Docket No.: 17-001153
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 [REDACTED], from [REDACTED], Michigan. The Petitioner was represented by [REDACTED], son. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Supervisor (AP Supervisor).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-16. As discussed during the hearing proceeding, page 14 of Exhibit A was removed from the evidence packet because it pertained to a different case. The Department was given through the end of the day on [REDACTED], to forward a copy of the correct document from Petitioner's case record to replace page 14 of Exhibit A, as well as a copy of the written case action notice at issue for this appeal. The additional documentation received from the Department on [REDACTED], has been admitted as Exhibit B, pp. 1-9.

ISSUE

Did the Department properly deny the [REDACTED], State Emergency Relief (SER) application filed on Petitioner's behalf?

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 [REDACTED], an online SER application for burial assistance was filed on Petitioner's behalf by her son. Petitioner's son's address and phone number were not included on this application. (Exhibit A, pp. 1-11)
2. On [REDACTED], a SER Verification Checklist was issued to Petitioner at her address requesting verification of: death; [REDACTED]; and amount for SER burial services. (Exhibit A, pp. 12-13)
3. Petitioner's son went into the local DHHS office to submit a paper application and had a conversation with the caseworker regarding what verifications were needed. (Son Testimony)
4. On [REDACTED], the Department received an ATM receipt and copy of the corresponding debit card for Petitioner's Social Security Administration (SSA) issued benefits, as well as a Statement of Funeral Goods and Services Selected. (Exhibit A, pp. 15-16; Exhibit B, pp. 2-3)
5. On [REDACTED], a SER Decision Notice was issued stating burial services were denied because the contribution toward the cost of burial services is equal to, or greater than, the amount needed. (Exhibit B, pp. 4-6)
6. On [REDACTED], a hearing request contesting the Department's determination was filed on Petitioner's behalf.

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 103 addresses verifications for the SER program:

VERIFICATION

Clients must be informed of all verifications that are required and where to return verifications. The due date is **eight calendar days** beginning with the date of application. If the application is not processed on the application date, the deadline to return verification is eight calendar days from the date verification is requested. This does not change the standard of promptness date.

Use the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications.

The client must make a reasonable effort to obtain required verifications. The specialist must assist if the applicant needs and requests help. If neither the client nor the specialist can obtain the verifications despite a reasonable effort, use the best available information. If no evidence is available, the specialist must use their best judgment.

ERM 103, October 1, 2015, p. 6.

During the hearing proceeding, the Department presented their case as if the denial had been based on a failure to comply with verification requirements. (AP Supervisor Testimony; Department Hearing Summary; Exhibit A) However, the [REDACTED], SER Decision Notice issued in this case states that burial services were denied because the contribution toward the cost of burial services is equal to, or greater than, the amount needed. (Exhibit B, pp. 4-6). The Department has not presented sufficient evidence to allow for a review of that issue.

Further, Petitioner's son credibly testified that he started the process with filing the application online, but he could not understand it well. Therefore, he went into the local Department office to file an application. Petitioner's son talked with the caseworker regarding what verification was needed, and understood that she needed a copy of the ATM print out from the [REDACTED] for Petitioner's SSA issued benefits. On [REDACTED], the Department received an ATM receipt and copy of the corresponding [REDACTED] for Petitioner's SSA issued benefits, as well as a Statement of Funeral Goods and Services Selected. Petitioner's son questioned whether the information submitted for the paper application was completely matched up with the information for the online application. (Son Testimony; Exhibit A, pp. 15-16; Exhibit B, pp. 2-3).

The AP Supervisor testified that at the time the [REDACTED], SER Verification Checklist was issued, the Department's computer system may not have been updated yet, and may have used the default language for requesting [REDACTED] account when the Department needed verification of the [REDACTED] for SSA issued benefits. (AP Supervisor Testimony)

It is noted that the [REDACTED], SER Verification Checklist was issued to Petitioner at her address. If only the online application had been filed, this would be understandable because the contact information for Petitioner's son was not included on the online application. (Exhibit As, pp. 2-3 and 12) However, based on Petitioner's son's credible testimony, there was also a paper application and a conversation with the caseworker. When the caseworker spoke with Petitioner's son about the needed verifications, it is unclear why she would not have obtained his address to send the SER Verification Checklist to him, rather than Petitioner, who was deceased. Petitioner's son's testimony, along with the copies of the verifications the Department did receive,

indicates that Petitioner's son made reasonable efforts and did comply with his understanding of the caseworker's request for verifications.

Further, it appears that the Department is now asserting that they were actually requesting bank account verifications, based on Petitioner's prior case record. In August of 2015, the Department had received verifications for two separate accounts. (Exhibit B, pp. 1 and 7-9) The SER Verification Checklist does not specify that those are the accounts verification is needed for. Given the credible testimony that the case worker's conversation with Petitioner's son indicated the needed account verification was for the SSA issued benefits, it is unclear why no notes were added to the checklist to clarify what specific accounts the Department was requiring verification of if some other account verification was needed.

Overall, the Department has also not presented sufficient evidence to establish that a denial based upon a failure to comply with verification requirements was in accordance with Department policy.

DECISION AND ORDER

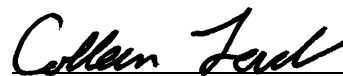
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the [REDACTED], State Emergency Relief (SER) application filed on Petitioner's behalf.

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. Re-process Petitioner's [REDACTED] SER application for burial assistance in accordance with Department policy, which would include allowing an opportunity to provide any needed verifications.

CL/bb



Colleen Lack

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]