



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 1, 2018
MAHS Docket No.: 18-005427
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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; 42 CFR 438.400 to 438.424; 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 July 25, 2018, from Lansing, Michigan. Petitioner was represented by Authorized Hearings Representative, [REDACTED]. The Department of Health and Human Services (Department or Respondent) was represented by Haysem Hosny, Hearings Coordinator.

Respondent's Exhibits A-C were admitted as evidence.

ISSUE

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

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 April 26, 2018, the Department received an application for State Emergency Relief, for assistance with burial expenses.
2. On May 1, 2018, the Department sent Petitioner a State Emergency Relief Decision Notice stating that the request for assistance has been denied because the total of the client contribution amount, the death benefit amount, and the funeral contract amount is greater than the total need amount.

3. On May 24, 2018, Petitioner filed a Request for Hearing to contest the Department's negative actions.
4. On June 7, 2018, the Michigan Administrative Hearing System received the Hearing Summary and attached documents.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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.

Pertinent Department Policy dictates:

State Emergency Relief (SER) assists with burial when the decedent's estate, mandatory copays, etc. are not sufficient to pay for:

- Burial.
- Cremation.
- Costs associated with donation of a body to a medical school.
- Cremation permit fee for an unclaimed body.
- Mileage costs for an eligible cremation of an unclaimed body.

An application for SER burial must be made no later than 10 business days after the date the burial, cremation or donation takes place. (ERM 306, page 1)

Use income expected to be received by the decedent and the group members during the 30-day countable income period to determine the income copayment; see ERM 206, Income and ERM 208, Determining Required Copayments.

Friends and relatives may supplement the SER burial payment in any amount up to \$4,000.00 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 \$200.00 of the copayment for this purpose. Designating reduces the copayment.

Deny SER if contributions exceed \$4,000.00 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 \$2,800.00. Friends and family will also pay air-shipping charges of \$2,100.00. MDHHS payment maximum is \$579.00. (There are no local cemetery or vault charges.) The total charges are \$4,900.00, which leaves \$4,321.00 as a family contribution. This exceeds the MDHHS maximum allowable, so no SER payment is made. (ERM 306, pages 8-9)

In this case, Petitioner's Representative alleged that she forgot to put the total amount of the funeral costs on the application. Petitioner alleged that \$725.00 is what is needed. The family contribution was \$2,570.00. ERM 306, page 10 indicates that the maximum SER benefit for burial with a memorial service is \$725.00. Total charges are \$3,294.40.

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 has established by the necessary, competent, material, and substantial evidence on the record that it was acting in compliance with department policy when it determined that Petitioner's application for SER benefits should be denied based upon the fact that the total of the client contribution amount, the death benefit amount, and the funeral contract amount is greater than the total need amount.

Equity powers are not within the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Health and Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940). The Department's decision is established by a preponderance of the evidence on the record and must be upheld.

DECISION AND ORDER

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

LL/bb



Landis Lain
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) 763-0155; 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

Vivian Worden
41227 Mound Rd.
Sterling Heights, MI 48314

Macomb County (District 36), DHHS

BSC4 via electronic mail

T. Bair via electronic mail

E. Holzhausen via electronic mail

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]