



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

Date Mailed: December 10, 2018
MAHS Docket No.: 18-010410
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 December 5, 2018, from Detroit, Michigan. The Petitioner is deceased and was represented by [REDACTED], the Authorized Representative (AR). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly reduce Petitioner's State Emergency Relief (SER) benefits for 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. Petitioner passed away on [REDACTED].
2. On July 23, 2018, Petitioner's AR submitted an application for SER benefits to assist with burial expenses.
3. On August 3, 2018, the Department sent Petitioner's AR a SER Decision Notice which indicated that it would pay [REDACTED] in cemetery/crematory expenses and [REDACTED] to the funeral director once a co-payment of [REDACTED] for the cemetery/crematory and [REDACTED] to the funeral director had been paid.

4. On August 28, 2018, Petitioner's AR submitted an invoice showing that he was required to pay the [REDACTED] crematory expense plus a [REDACTED] permit fee, which the Department did not cover.
5. Also, on August 28, 2018, Petitioner submitted a receipt showing that he had paid a total amount of [REDACTED].
6. The receipt had no other identifying information other than the amount.
7. The Department reduced its payment by [REDACTED] believing that Petitioner's AR had overpaid his co-payment by this amount.
8. On October 5, 2018, Petitioner's AR filed a Request for Hearing disputing the Department's failure to make a complete payment to the funeral home.

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.

Additionally, 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. ERM 306 (January 2018), p. 1.

In this case, Petitioner's AR submitted a SER application requesting burial expenses for Petitioner. In his application, Petitioner's AR requested [REDACTED] in burial and cremation expenses. Under the Department's policy, the maximum payment for cremation without memorial services is [REDACTED] to the funeral director and [REDACTED] to the cemetery or crematory. ERM 306, p. 10. On August 3, 2018, the Department sent Petitioner's AR a SER Decision Notice which indicated that the maximum amount had been approved and would be paid once a co-payment of [REDACTED] for the cemetery/crematory and [REDACTED] to the funeral director had been paid.

On August 28, 2018, Petitioner's AR submitted a receipt showing that he had paid [REDACTED] toward the burial expenses. At the same time, Petitioner's AR submitted an invoice to show that he was required to pay the [REDACTED] cremation expenses and a [REDACTED] permit fee.

The Department submitted its payment for the burial expenses minus [REDACTED]. The Department testified that it reduced the payment amount because Petitioner had overpaid by [REDACTED]. However, the documentation submitted by Petitioner clearly indicated that he had paid the required co-payment plus the [REDACTED] permit fee not covered by the Department. Therefore, it is found that Petitioner did not overpay his co-payment and as such, the Department improperly reduced the burial expense payment.

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 reduced the payment to the funeral director by [REDACTED]

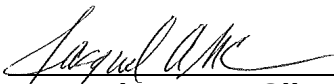
DECISION AND ORDER

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. Submit [REDACTED] payment to the funeral director to cover Petitioner's remaining burial expenses.
2. Notify Petitioner's AR in writing of its decision.

JAM/tlf



Jacquelyn A. McClinton
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

[REDACTED]

Petitioner

[REDACTED]