



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

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Date Mailed: April 15, 2019
MAHS Docket No.: 18-013507
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on April 3, 2019, from Lansing, Michigan. Petitioner was represented by his authorized representative, ██████████. The Department was represented by Silvester Williams.

ISSUE

Did the Department of Health and Human Services (Department) properly deny Petitioner's application for State Emergency Relief (SER) 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. On ██████ ██████ 2018, the Department received Petitioner's State Emergency Relief (SER) application seeking assistance with burial expenses. Exhibit A, pp 3-16.
2. On ██████ ██████ 2018, the Department received verification of burial expenses and a copy of a death certificate. Exhibit A, pp 17-19.
3. On ██████ ██████ 2018, the Department notified Petitioner that the application had been denied. Exhibit A, pp 20-22.
4. On November 28, 2018, the Department received Petitioner's request for a hearing protesting the denial of the application for State Emergency Relief (SER) assistance. Exhibit A, p 2.

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.

State Emergency Relief (SER) assists with burial when the decedent's estate, mandatory copays, etc. are not sufficient to pay for burial costs. Assets owned by the decedent at the time of death constitute an estate that must be applied towards burial expenses. Friends and relatives may supplement the SER burial payment in any amount up to \$4,000 for additional services. The Department will deny SER benefits if contributions exceed \$4,000 or if the cost of the burial exceeds the SER maximum payment allowed plus the voluntary contributions. Department of Health and Human Services Emergency Relief Manual (ERM) 306 (February 1, 2019), pp 1-11.

On [REDACTED] [REDACTED] 2018, the Department received Petitioner's SER application seeking assistance with burial expenses. The amount of assistance requested totaled \$8,906.40, which exceeded the maximum SER payment allowed by more than \$4,000. Therefore, the Department denied the SER application.

Petitioner's representative testified that all that was requested was a minimal burial and memorial services compatible with Petitioner's faith.

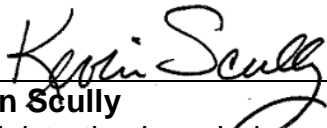
However, Administrative Law Judges have no authority to make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

The 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 the State Emergency Relief (SER) application.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/dh



Kevin Scully
Administrative Law Judge
for Robert Gordon, 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

