



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 7, 2021
MOAHR Docket No.: 20-000777
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 April 5, 2021, from Detroit, Michigan. Petitioner's brother, [REDACTED], was represented by his Authorized Hearing Representative, [REDACTED]. The Department of Health and Human Services (Department) was represented by Lianne Scupholm, Hearing Facilitator and Sara Sanger, Eligibility Specialist.

ISSUE

Did the Department properly deny the application for State Emergency Relief (SER) benefit submitted on behalf of Petitioner?

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 December 10, 2019, Petitioner died.
2. On [REDACTED], 2019, Petitioner's brother submitted an application for SER benefits for Petitioner's cremation and memorial expenses (Exhibit A, pp. 10-12 and pp. 15-17).
3. On [REDACTED], 2019, the Department completed an interview with Petitioner's brother (Exhibit A, p. 18 and 20).
4. On [REDACTED], 2019, the Department sent Petitioner's brother notification that the application for SER benefits was denied due to excess assets (Exhibit A, pp. 24-26).

5. On January 17, 2020, Petitioner's brother submitted a request for hearing disputing the Department's actions.

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.

As a preliminary matter, the Department objected to Petitioner's brother's appointment of an AHR. For SER assistance with burial services, any relative of the client can apply as an authorized representative. ERM 306 (January 2018), p. 1. Therefore, Petitioner's brother had authority as an authorized representative to apply for SER burial benefits for Petitioner. ERM 102 (January 2018), p. 2, expressly provides that "any applicant" for SER services has the right to request a hearing regarding the Department's SER action. Because Department policy allowed Petitioner's brother to apply for SER burial assistance, it follows that he has the right to request a hearing concerning the denial of such assistance. A hearing request with a client signature may name an AHR who is authorized to stand in for or represent the client in the rest of the hearing process. BAM 600 (July 2019), p. 2. As Petitioner's brother has the right to request a hearing, he also has the right to appoint an AHR.

In the present case, Petitioner's brother submitted an application for SER benefits for assistance with Petitioner's cremation and memorial services costs. The Department testified that the application was denied due to excess assets.

SER assists with burial when the decedent's estate, mandatory copays, etc. are not sufficient to pay for: (i) burial; (ii) cremation; (iii) costs associated with donation of a body to a medical school; (iv) cremation permit fee for an unclaimed body; or (v) mileage costs for an eligible cremation of an unclaimed body. ERM 306 (December 2019), p. 1. The Department will combine the decedent's and responsible relatives' cash and noncash assets to determine the asset copayment. ERM 306, p. 5. A decedent who is the only SER group member does not qualify for any asset exclusion. ERM 306, p. 5. The Department will deny the application if the total countable value of cash and non-cash assets prior to exclusions exceed the SER payment maximum for burials. ERM 306, p. 6. The maximum payment for burial services that includes cremation with a memorial service is \$600. ERM 306, p. 10.

For SER benefits, countable cash assets include amounts in deposit banks, savings and loan associations, credit unions and other financial institutions. ERM 205 (December 2019), p. 2. Non-cash assets include vehicles. ERM 205, p. 2. The Department counts the equity value of an asset when determining SER eligibility. The Department will determine the equity value of an asset by subtracting the amount legally owed and the cost of sale from the asset's market value. ERM 205, p. 2. Market value is the amount of money the owner would receive in the local area if the asset were sold on short notice. ERM 205, p. 4. The Department will deduct from market value: (i) the amount legally owed on the asset; (ii) the cost of selling the asset; and (iii) any amount which is claimed and verified to belong to a person outside of the SER group. ERM 205, p. 4. The Department verifies the amount of cash the group would receive if they sold the non-cash assets. ERM 205, p. 4.

The Department testified that during the interview process, Petitioner's brother disclosed that Petitioner had a multitude of banks accounts with funds totaling \$73.26 (Exhibit A, p. 21). Petitioner's brother also disclosed that Petitioner had a 2012 Chevy Cruze and a 2004 Chevy Blazer. The Department presented National Automobile Dealers Association (NADA) reports for both vehicles (Exhibit A, pp. 22-23). The documents show that the Chevy Cruze's rough trade-in value was \$2,425 and the Chevy Blazer's rough trade in value \$500. The Department testified that Petitioner was the only member of his SER group, and therefore, did not qualify for any asset exclusions. As Petitioner's asset value exceeded maximum payment for the services requested, the Department denied the application for SER benefits.

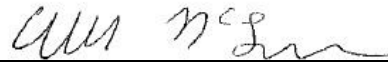
At the hearing, the AHR disputed the Department's calculation of Petitioner's asset total. The AHR argued that the Department grossly overvalued Petitioner's vehicles. The AHR submitted the probate inventory of Petitioner's assets showing that total value was \$1,654.29 between both vehicles and the cash assets (Exhibit A, p. 23). The AHR testified that the vehicles had operational issues and the total asset value reflected the actual sales prices of the vehicles.

As Petitioner was the only member of his SER group, the Department correctly determined that Petitioner is not entitled to any asset exclusions. Per policy, the total value of Petitioner's assets cannot exceed the maximum SER burial service amount for the services requested, which is \$600. Whether you use the Department's calculation of Petitioner's asset total or the probated value of the assets, Petitioner's assets exceed the limit for SER benefits. Therefore, the Department acted in accordance with policy when it denied the application for burial services submitted on behalf of Petitioner.

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 the application for SER benefits submitted on Petitioner's behalf. Accordingly, the Department's decision is **AFFIRMED**.

EM/jem



Ellen McLemore

Administrative Law Judge
for Elizabeth Hertel, 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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS-Calhoun-Hearings
BSC3-HearingDecisions
T. Bair
E. Holzhausen
MOAHR

Authorized Hearing Rep. – Via USPS:

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner – Via USPS:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]