



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]
MI [REDACTED]

Date Mailed: December 18, 2020
MOAHR Docket No.: 20-006259
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 November 19, 2020. Petitioner passed away on September 1, 2020.

Petitioner was represented by her SER Authorized Representative, [REDACTED].

The Department of Health and Human Services (Department) was represented by Jessica Kirchmeier, Hearings Coordinator.

Petitioner's Exhibit B.1 was offered and admitted into the record.

Department's Exhibit A.37 was offered and admitted into the record.

ISSUE

Did the Department properly deny Petitioner's State Emergency Relief (SER or ER)?

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], 2020, Petitioner passed away.
2. On [REDACTED] 2020, Petitioner's representative applied for SER for burial services.

3. On September 9, 2020, the Department issued a verification request, due September 16, 2020, for relief sought for assistance with Petitioner's burial.
4. The United States Postal Service (USPS) forwarded the envelope to a different address. Petitioner Exhibit B.1.
5. Petitioner did not receive the verification request in time to deliver the verifications.
6. The Department currently has all necessary verifications required to process Petitioner's request.
7. On [REDACTED], 2020, Petitioner's application was denied for failure to deliver the verifications.
8. Evidence of record indicates that Petitioner would have eligibility for SER burial relief.
9. On September 22, 2020, Petitioner's representative appealed the denial.

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.

Applicable policy and procedure to the case herein is found primarily at ERM 101, 102, 103 and 2016.

In this case, the Department argues that Petitioner failed to return the requested verifications in 7 days. After some review, the Department's testimony was that Petitioner had 8 days. Petitioner argues that she did not receive the request for verifications in time to return the verifications, as requested by the Department. In support, Petitioner submitted Exhibit B.1 which shows that the USPS put a different address on the envelope, evidently to forward the letter.

Under general evidentiary considerations in American jurisprudence and case law, when a party presents adequate evidence of service of process, a letter mailed is presumed to have been delivered. Here, the Department met that burden. Opposing parties may rebut such presumptions with evidence. Here, Petitioner brought forth evidence to rebut the presumption that the letter was in fact, mailed and delivered,

pursuant to Exhibit B.1. Here, the address(es) and issue(s) are not simple. The SER application contained two addresses - the decedent's and the representative. While some of the confusion here could have been avoided had the Department mailed the verification request to both addresses, in any case, it appears that the USPS put a forwarding address on the envelope for unknown reasons. Here, Petitioner has rebutted the presumption that this letter was mailed and delivered within an eight-day window and thus, Petitioner has rebutted the Department's evidence, shown good cause, and met her burden of proof.

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 denied Petitioner's SER burial relief.

DECISION AND ORDER

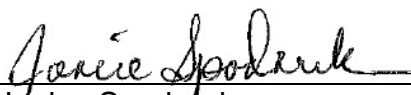
Accordingly, the Department's decision is **REVERSED**.

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. Reinstate Petitioner's [REDACTED] 2020, burial request application, and
2. Reprocess Petitioner's SER burial eligibility, and
3. Issue SER burial benefits to Petitioner to which she is entitled.

IT IS SO ORDERED.

JS/ml



Janice Spodarek
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

