



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 28, 2017
MAHS Docket No.: 17-003500
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 20, 2017, from Detroit, Michigan. Petitioner appeared and represented herself. Petitioner's daughter, [REDACTED], testified on Petitioner's behalf. The Department of Health and Human Services (Department) was represented by Kathleen Scorpio-Butina, Hearing Facilitator.

ISSUE

Did the Department properly deny Petitioner's [REDACTED] 2017 application for State Emergency Relief (SER) 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 February 4, 2017, Petitioner's husband (Decedent) died.
2. Petitioner's family paid certain expenses towards Decedent's funeral expenses, leaving a \$700 balance to the funeral home (Exhibit 1).
3. On [REDACTED], 2017, Petitioner applied for SER assistance with Decedent's funeral expenses, requesting assistance of \$700.

4. On February 9, 2017, the Department sent Petitioner a Verification Checklist (VCL) asking that she verify her Chase checking accounts ending in account numbers [REDACTED], [REDACTED], and [REDACTED] (Exhibit 2).
5. The Department received verification of the checking accounts ending in number [REDACTED], which showed an end balance of \$0.18, and number [REDACTED], which showed a balance of \$358.69 as of February 13, 2017 (Exhibit 3).
6. At the time of Decedent's death, Petitioner received \$333 in biweekly unemployment benefits (Exhibit 3).
7. On February 16, 2017, the Department sent Petitioner a SER Decision Notice notifying her that her SER application was denied because "the total of the client contribution amount, the death benefit amount, and the funeral contract amount was greater than the total need amount." The "specialist's comments" section of the Notice also indicated that Petitioner had failed to verify the checking account ending in number [REDACTED]. (Exhibit 5.)
8. On [REDACTED] 2017, the Department received Petitioner's request for hearing disputing the Department's action.

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, it is noted that, for SER assistance with burial services, any relative of the client can apply as an authorized representative. ERM 306 (February 2017), p. 1. Therefore, Petitioner, as Decedent's wife, had authority as an authorized representative to apply for SER burial benefits for her husband. ERM 102 (October 2013), 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 to apply for SER burial assistance, it follows that she has the right to request a hearing concerning the denial of such assistance. Accordingly, the issue of whether the Department properly denied the SER application for burial assistance was considered at the hearing.

At the hearing, the Hearing Facilitator explained that the Department denied Petitioner's SER application for burial expense assistance on the basis that Petitioner's copayment exceeded the requested relief.

In SER applications for burial assistance, "responsible relatives" are responsible for mandatory copayments. ERM 306 (February 2017), p. 4. A "responsible relative" for a deceased adult is the deceased's spouse who was living with the deceased person at the time of death. This includes the spouse of an individual who was in long-term care, adult foster care, or a hospital at the time of his death unless he and his spouse had separated prior to the deceased's admission to the facility. ERM 306, pp. 4-5.

In this case, Petitioner identified Decedent as her husband. There was no evidence that they were separated. Therefore, Petitioner is a responsible relative subject to a mandatory copayment.

The amount of the mandatory copayment is equal to the asset copayment plus the income copayment. ERM 306, p. 8. Because friends and relatives may supplement the SER burial payment in any amount up to \$4,000 for services in addition to those requested in the SER application, Department policy allows responsible relatives who are required to make a mandatory copayment to designate \$200 of the copayment for this purpose. ERM 306, p. 8. Accordingly, the mandatory copayment is reduced by up to \$200 if the responsible relative makes any payments towards funeral expenses.

In determining the asset copayment, the Department combines the value of the decedent and responsible relative's cash and noncash assets. ERM 306, p. 5. For cash assets, a \$50 cash asset exclusion applies when there is a responsible relative.

In this case, Petitioner and Decedent's only assets were the cash in the Chase checking accounts. The cash in the two accounts the Department received verification of totaled \$358.87, the sum of \$0.18 in account ending 0880 and the \$358.69 in account ending 4344. This total, decreased by the \$50 cash asset exclusion, results in an asset copayment of \$308.87.

The income copayment is (i) the net income received or expected to be received by the decedent and the surviving responsible relative during the 30-day countable income period reduced by (ii) the applicable basic monthly income need standard for the number of group members. ERM 306, p. 8; ERM 208 (February 2017), p. 1.

Net unearned income, which includes unemployment benefits, is determined by deducting from the gross amount received (i) mandatory withholding taxes, (ii) court-ordered child support, including arrears, (iii) health insurance payments, and (iv) Medicare premiums. ERM 206, pp. 2, 4-5. The 30-day countable income period begins the date the local office receives a signed application. ERM 206 (February 2017), p. 1.

In this case, the 30-day countable period ran from [REDACTED], 2017, when Petitioner submitted the SER application, to March 9, 2017. Petitioner received \$666 biweekly.

Therefore, during the 30-day countable period, she would be expected to receive \$1332. There was no evidence of any applicable deductions.

The basic monthly income need standard is based on SER group size. A SER group includes all the person who occupy the same home. ERM 201 (October 2015), p. 1. For SER burials, the deceased person is an included group member; 18 to 21-year-old children of the deceased parents of the burial group are not. ERM 201 (October 2015). In this case, Petitioner and Decedent were included in the SER group. There was no evidence that there were any other individuals living in Petitioner's home. The basic monthly income need standard for a two-person SER group is \$500. ERM 206, p. 6.

Because Petitioner's \$1332 income during the countable period exceeded the \$500 basic monthly income need standard by \$832, Petitioner's income copayment was \$832.

The sum of Petitioner's \$308.87 asset copayment and her \$832 income copayment was \$1140.87. Because the funeral purchase contract shows that there were additional expenses incurred beyond the \$700 Petitioner requested from the Department for SER burial assistance, Petitioner was eligible for a \$200 deduction to this total in determining her total mandatory copayment. \$1140.87 less the \$200 deduction results in a mandatory copayment of \$940.87.

Copayment amounts are deducted from the cost of resolving the emergency. ERM 208, p. 2. In this case, Petitioner's mandatory copayment of \$941.87 exceeded the \$700 cost of resolving the emergency (the requested relief). Therefore, Petitioner was ineligible for SER burial assistance, and the Department properly denied Petitioner's SER application. Because the Department properly denied the application on the basis that the copayment exceeded the \$700 total need amount, the issue of the verification of the third checking account does not affect the outcome of the Department's decision.

At the hearing, Petitioner's daughter contended that the funeral home had charged the family expenses for Decedent's funeral in excess of those shown on the invoice. Department policy provides that friends and relatives may supplement any SER burial payment in any amount up to \$4000 for additional services. ERM 306, p. 8. However, the maximum SER payment for burial with a memorial is \$720. ERM 306, p. 10. In this case, Petitioner's daughter confirmed that the amount outstanding and owing to the funeral home was the \$700 in requested SER relief. Thus, the cost of resolving the emergency is \$700. The additional amounts paid by the family do not impact the calculation of the mandatory copayment and the conclusion that, because this amount exceeded the \$700 cost of resolving the emergency, Petitioner was ineligible for SER assistance.

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 Petitioner's SER application.

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



ACE/tlf

Alice C. Elkin
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) 335-6088; 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

Via Email:

MDHHS-Macomb-20-
Hearings@michigan.govBSC4 Hearing Decisions
E. Holzhausen
T. Bair
MAHS

**Petitioner –
Via First-Class Mail:**

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