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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: March 13, 2019
MAHS Docket No.: 18-013856
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 March 11, 2019, from Detroit, Michigan. The Petitioner was represented by ██████████, mother of Petitioner, and ██████████, significant other of Petitioner. The Department of Health and Human Services (Department) was represented by Renesha Hamilton, Eligibility Specialist.

ISSUE

Did the Department properly deny the State Emergency Relief (SER) application for burial service expenses for 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 ██████████, 2018, a SER application for assistance with burial services was submitted for Petitioner by his mother in addition to a Funeral Purchase Contract listing the total cost for goods and services of his funeral as \$ ██████████
2. On December 5, 2018, the Department issued a SER Decision Notice to Petitioner's mother informing her that Petitioner's request for SER burial assistance had been denied because the amount required for client contribution was greater than the maximum allowed for voluntary contributions.

3. On December 17, 2018, the Department received a request for hearing from Petitioner's mother disputing the denial of SER burial assistance for Petitioner.

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 (October 2018), p. 1. Therefore, as Decedent's Mother, the request for hearing was proper as she had authority as an authorized representative to apply for SER burial benefits for her son. ERM 102 (October 2018), p. 2, expressly provides that applicants for SER services have the right to request a hearing regarding the Department's SER action. Since Department policy allowed Petitioner's mother to apply for SER burial assistance on Petitioner's behalf, 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 Eligibility Specialist explained that the Department denied Petitioner's SER application for burial expense assistance on the basis that the family contribution to resolve the emergency exceeded the maximum amount permitted for voluntary contributions.

SER burial assistance includes goods and services normally provided to bury, cremate, or donate a human body including goods and services provided by a funeral director. ERM 306, p. 3. A memorial service, which includes viewings or visitations, is also included if the funeral director is in attendance at the service. ERM 306, p. 4. Based upon a review of the funeral purchase contract, a visitation/ceremony service was held for Petitioner. Therefore, policy provides that SER can pay a maximum of \$480.00 to the funeral director and \$145.00 to the cemetery or crematory for a total of \$625.00. Based upon the amount requested, \$ [REDACTED] the remaining balance due would be \$ [REDACTED]

Policy provides that Petitioner's income is required to be considered and used to resolve the emergency. ERM 306, p. 8. Petitioner had Retirement, Survivors and Disability Insurance (RSDI) income of \$ [REDACTED] per month. In considering RSDI income, the net amount received should be budgeted. ERM 206 (February 2017), p. 1. No

evidence was presented of whether the \$ [REDACTED] listed in the application was gross or net income; therefore, it is assumed that the income is his net benefit amount. After consideration of income, the copayment is calculated. Income that is more than the basic monthly need standard for the group size must be deducted from the cost of resolving the emergency. ERM 208 (October 2018), p. 1. This is the income payment. *Id.* The need standard for a group size of one is \$445.00. ERM 208, p. 6; ERM 206, p. 6. Therefore, Petitioner has an income copayment of \$ [REDACTED]. This amount is subtracted from the remaining balance due for a total of \$ [REDACTED].

No evidence was presented that Petitioner had any assets; therefore, there is no asset copayment.

Finally, policy provides that the maximum voluntary contribution for family and friends is \$4,000.00. ERM 306, p. 8. If the voluntary contributions exceed \$4,000 or if the total cost of the burial exceeds the SER maximum payment plus the voluntary contribution maximum, then SER burial assistance must be denied. ERM 306, p. 9. Since the outstanding balance after consideration of Petitioner's copayment and the maximum SER payment is \$ [REDACTED] the SER application must be denied. The Department acted in accordance with policy.

During the hearing, the parties discussed a discount which was provided by the funeral director after the Department's decision was made. Since the discount was not provided to the Petitioner's family until after the application and decision were made, it was not a factor in the Department's decision and cannot be considered here.

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 application for SER burial assistance.

DECISION AND ORDER

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



AMTM/jaf

Amanda M. T. Marler
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

DHHS

Rolando Gomez
MDHHS-Tuscola-Hearings

Petitioner

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[REDACTED] MI [REDACTED]

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