



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: August 20, 2019  
MOAHR Docket No.: 19-006840  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

**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 August 8, 2019, from ██████████ Michigan. The Petitioner was represented by ██████████, his Power of Attorney. At the time of the hearing, the Petitioner was deceased. The Department of Health and Human Services (Department) was represented by Mark Kwarciany, Family Independence Manager.

**ISSUE**

Did the Department properly deny Petitioner's application for burial 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 ██████████, 2019, the Petitioner died.
2. On June 10, 2019, ██████████ the Petitioner's Power of Attorney (POA), filed a State Emergency Relief (SER) application for burial assistance. Exhibit A.
3. The Department, based upon information received from the funeral home, determined that Petitioner was cremated on ██████████ 2019. Exhibit B.
4. The Department issued a State Emergency Relief Notice denying the application for burial assistance due to the application being received more than 10 days after cremation of Petitioner.

5. The Petitioner's POA filed a timely hearing request on [REDACTED] 2019, protesting the denial of the application for burial assistance.

### **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.

In this case, the Department denied the application for SER for burial assistance due to the application being untimely. The Department determined, based upon Department policy found in ERM 306, that the application filed on behalf of Petitioner by his appointed Durable Power of Attorney was untimely because the application was required to be filed no later than 10 business days after the date of the burial, cremation or donation takes place. Petitioner's POA, [REDACTED] testified that Petitioner died on [REDACTED] 2019; and based upon information obtained from the funeral home by the Department assigned caseworker, the Petitioner was cremated on [REDACTED] 2019. Exhibit B. Thereafter, the Department sent the SER Decision Notice denying the burial assistance application for the reason that it was not filed within 10 days of the deceased Petitioner's cremation.

ERM 306 (June 2019), p. 1, provides that an application for SER burial must be made no later than 10 business days after the burial, cremation or donation takes place.

Based upon Department policy and the facts presented regarding the cremation date and the date of SER Burial Application, the Department correctly denied the application for burial assistance.

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 SER application for burial assistance as untimely.

**DECISION AND ORDER**

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

LMF/jaf



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**Lynn M. Ferris**  
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 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 Electronic Mail  
**DHHS**

Joan King  
MDHHS-Delta-Hearings

BSC4  
T Bair  
E Holzhausen

Via First Class Mail  
**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

Via First Class Mail  
**Authorized Hearing Rep.**

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]