



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

Date Mailed: January 10, 2020
MOAHR Docket No.: 19-011827
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. For unclaimed bodies, a county medical examiner is authorized to apply for State Emergency Relief (SER) assistance with burial expenses as directed by State Emergency Relief Manual (ERM) 306. Petitioner was represented by Michelle Fox, Chief Medical Examiner Investigator for Ingham County. The Department of Health and Human Services was represented by Amber Gibson, Hearing Facilitator. The hearing was adjourned on December 5, 2019, and December 11, 2019. After due notice, a telephone hearing was held on January 2, 2020, from Lansing, Michigan.

ISSUE

Did the Department of Health and Human Services (Department) properly deny Petitioner's application for State Emergency Relief (SER) 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. Petitioner died on July 1, 2019, and his body was cremated on July 9, 2019. Exhibit A, p 14.
2. On July 8, 2019, the Department received a State Emergency Relief (SER) application requesting assistance with burial expenses on behalf of Petitioner that was filed by his authorized representative and designee of the Office of the Ingham County Medical Examiner. Exhibit A, pp 5-15.

3. On July 8, 2019, the Department sent Petitioner's authorized representative a SER Verification Checklist (DHS-3503-SER) requesting verification of the balance of a bank account by July 15, 2019. Exhibit A, p 19.
4. On July 12, 2019, the Department provided the authorized representative a Repay Agreement (DHS-2157). Exhibit A, p 18.
5. On July 17, 2019, the Department notified Petitioner that the July 8, 2019, application for State Emergency Relief (SER) had been denied. Exhibit A, pp 21-23.
6. On October 7, 2019, the Department received a State Emergency Relief (SER) application requesting assistance with burial expenses on behalf of Petitioner that was filed by his authorized representative and designee of the Office of the Ingham County Medical Examiner. Exhibit A, pp 26-36.
7. On October 22, 2019, the Department received Petitioner's request for a hearing protesting the denial of State Emergency Relief (SER) 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.

State Emergency Relief (SER) assistance is available to pay for burial, cremation, and the cremation of an unclaimed body when the decedent's estate is insufficient to pay the costs. Department of Health and Human Services Emergency Relief Manual (ERM) 306 (June 1, 2019), p 1.

The Department will deny the SER application if the total countable value of cash and non-cash assets prior to the asset exclusion exceed the SER payment maximum for burials. ERM 306, p 6.

When there is not surviving group member, assets owned by the decedent at the time of death constitute an estate. The Department will approve the SER application if the value of the decedent's estate is projected to be less than the SER burial payment. The person starting the proceedings in probate court must sign a Repay Agreement to repay the Department if the probate court determined the amount available to meet burial

expenses exceeded the SER maximum. The Repay Agreement must be signed prior to the Department authorizing a SER payment. ERM 306, p 8.

An application for SER burial must be made no later than 10 business days after the date of the burial, cremation, or donation takes place. ERM 306, p 1.

Petitioner died on July 1, 2019, and his body was cremated on July 9, 2019. It was not disputed during the hearing that there were no surviving members of his household or that any surviving family members accepted responsibility for the disposal of Petitioner's body.

On July 1, 2019, the Department received a SER application requesting assistance with expenses for the cremation of Petitioner's body. On July 8, 2019, the Department requested verification of Petitioner's assets, including the balance of a bank account reported on the application form by his authorized representative. The authorized representative was sent a Repay Agreement, allowing for the approval of SER benefits pending a final determination of the value of Petitioner's estate.

On July 17, 2019, the Department had not received verification of the balance of Petitioner's bank account, or a signed Repay Agreement. Therefore, the Department denied the SER application.

Based on the evidence and testimony available during the hearing, the Department has established that it was acting in accordance with the requirements of ERM 306 when it denied the July 1, 2019, SER application for failure to provide the Department with information necessary to determine Petitioner's eligibility to receive benefits, or a signed Repay Agreement.

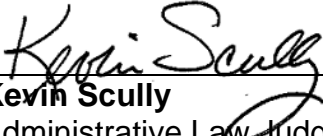
On October 7, 2019, the Department received a second SER application requesting assistance with the costs of cremating Petitioner's unclaimed body. Since this application was received more than 10 business days after the cremation of Petitioner's body, the Department denied the October 7, 2019, application because it was not filed in a timely manner.

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 July 1, 2019, and October 7, 2019, applications for State Emergency Relief (SER) assistance.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



Kevin Scully
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

DHHS

Amber Gibson
5303 South Cedar
PO BOX 30088
Lansing, MI 48911

Ingham County, DHHS

BSC2 via electronic mail

T. Bair via electronic mail

E. Holzhausen via electronic mail

Petitioner

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