



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: October 26, 2020
MOAHR Docket No.: 20-005639
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 October 1, 2020, from Detroit, Michigan. The Petitioner was [REDACTED]. is deceased and was represented by [REDACTED], who is his mother. The Department of Health and Human Services (Department) was represented by Brittany Cheeks, Eligibility Specialist and Gloria Thompson, FIM.

ISSUE

Did the Department properly process and deny the Petitioner's State Emergency Relief (SER) burial application?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner's son is [REDACTED], who is deceased. [REDACTED]'s date of death is July 5, 2020. The Petitioner's son was buried on July 11, 2020. Exhibit A, p. 20.
2. The Department received a receipt from [REDACTED] for Melvin Washington's burial costs. Exhibit A, p. 5.
3. The Petitioner filed a SER burial application for her deceased son on July 20, 2020.

4. The Department issued a SER Decision Notice dated August 4, 2020 denying the Petitioner SER Burial Application stating a group member is not or is no longer living with you. Therefore, his/her needs are not considered when determining your eligibility. The Department noted the Notice reasons were not correct. ERM 201. Exhibit A, p. 6
5. The Department issued a second SER Decision Notice on August 7, 2020 for the reason: The total of the client contribution amount, the death benefit amount and the funeral contract is greater than the total need amount. ERM 306. The Notice was also not correct. The burial application was denied because it was not timely filed, within 10 business days of the deceased's burial on July 11, 2020, however, no SER Decision Notice was presented at the hearing. Exhibit A, p. 6.
6. The Petitioner requested a timely hearing on August 19, 2020 protesting the Department's action denying the application for burial expenses

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 testified that it denied the SER burial application due to it not being filed within 10 business days of the July 11, 2020 burial date for the deceased, [REDACTED]. The caseworker who processed the application testified that the Petitioner signed and mailed the application on July 25, 2020 and that it was received by the department on [REDACTED], 2020. The Petitioner's application stated that the deceased was buried on December 11, 2020 and the Department determined that in order to be a timely application the application had to be made no later than July 24, 2020. The SER Decision Notice dated August 4, 2020 does not state the reason for denial that the application was untimely. The Department could not explain the reason stated on the Notice and said it was incorrect as printed. The Department also presented a SER Decision Notice dated August 7, 2020 issued to correct the August 4, 2020 Notice. The August 7, 2020 Notice denied the burial application due to the client contribution amount, the death benefit amount and the funeral contract is greater than the total need amount. The Department did not present the actual amounts determined for death benefit amount, client contribution amount or identify the amount of the total need.

The Department agreed that the Notice reason stated in the August 7, 2020 was not the reason for denial and was not very clear. Exhibit A, pp. 8-9.

The Department presented the Petitioner's SER application and said it was received on July 30, 2020 and indicated that receipt date was show by an electronic date stamp. The application presented was signed and dated July 19, 2020. Exhibit A, p.11. A second signature page was also in the case file for an application signed and dated by Petitioner July 25, 2020. Exhibit A, p. 18.

The Petitioner testified that she dropped the application off at the Department on Greenfield and Joy Rd. on Monday, July 20, 2020 and that July 19, 2020 was a Sunday. She deposited the application in the drop box as she could not get inside the offices as the Department was closed. She further testified that Ms. Cheeks, the department caseworker who processed the application mailed the application back to her and told her it was wrong and that Petitioner had to fill out another portion of the application which was highlighted and she filled out and dated it for July 25, 2020 and dropped it off and that was told it was denied. Ms. Cheeks denied returning the application to Petitioner because it was not completed and she did not receive more than one application and that the application she received was received on July 30, 2020. Ms. Cheeks testified that she works from home and has no application to send to clients and thought perhaps a clerical employee in the office may have assisted the Petitioner and sent the application. The Petitioner also dropped off on July 10, 2020 the bill for services and a cover letter. She also called the number posted by the Department when she dropped off the documents. She testified that she completed the registration timely.

The Department said whoever received that application probably sent the application to Petitioner because all they received was the burial statement but it was not date stamped. It appears that the documents were scanned into the system on July 30, 2020. Ms. Thompson also testified that during that period everything was delayed, including the mail and registrations due to the volume of mail being received so it is scanned when the assigned staff gets to it and sends it to the caseworker. She further testified that the mail received is put in a pile for the clerical workers to scan and put in the system for the worker if there was no application in the document filed by the Petitioner, the clerical staff would have taken what was received and sent the Petitioner an application. Ms. Cheeks testified that she believed that the Petitioner did drop off the document on July 19, 2020 and it was sent back to her and added additional time. It thus appeared that the document was timely.

Department policy found in ERM 306 governing the requirements of burial assistance provide that SER assists with burial when the decedent's estate, mandatory copays, etc. are not sufficient to pay for: burial, cremation, costs associated with donation of a body to a medical school, cremation permit fee for an unclaimed body. ERM 306 (October 2020) p. 1. An application for SER burial must be made no later than 10 business days after the date the burial, cremation or donation takes place. ERM 306, p. 1. Emphasis supplied. The Petitioner is the deceased's mother, a relative and thus is an authorized applicant. A single SER group consists of persons who occupy the same

home. For SER burials, the deceased person is an included group member. ERM 206 (October 2020), p.1. Based upon Department policy the Petitioner and her deceased son consist of a single SER group as the deceased was living in Petitioner's home.

In this case the Department did not determine Petitioner's eligibility for burial services as they determined the application was untimely however no notice to that effect was presented. However, it also appears based upon the Petitioner's credible testimony that she filed the application on July 20, 2020 and that it was timely and due to a clerical processing error, it was scanned in on July 30, 2020.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the Petitioner's SER burial application.

DECISION AND ORDER

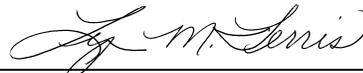
Accordingly, the Department's decision is

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. The Department shall re-register the Petitioner's SER Burial Application as of a receipt date of July 20, 2020 and determine the Petitioner's eligibility.
2. The Department shall send the Petitioner written notice of its determination.

LF/tm



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 Email:

MDHHS-Wayne-17-Hearings
T. Blair
E. Holzhausen
BSC4
MOAHR

**Via First Class Mail:
Petitioner**

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

Authorized Hearing Rep.

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