



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: May 28, 2020
MOAHR Docket No.: 20-001473
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 hearing was scheduled for March 26, 2020. Due to COVID 19, Petitioner's hearing was adjourned by the State of Michigan. On May 14, 2020 MOAHR issued a Notice of Hearing for May 27, 2020 by conference telephone.

Petitioner was represented by [REDACTED].

The Department of Health and Human Services (Department) was represented by Jessica Mays, APW. Sara Terreros, APS appeared as a witness.

The Department Exhibit A.24 was offered and admitted into the record.

ISSUE

Did the Department properly deny Petitioner's SER burial relief 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. On [REDACTED], 2020, Petitioner's daughter [REDACTED] applied for SER burial relief on behalf of Petitioner, deceased.
2. Petitioner requested \$210 for the cemetery and \$2,901 for the funeral director expenses.

3. The Department determined that Petitioner was eligible for a \$600 benefit, \$455 for the funeral director and \$145 for the cemetery.
4. Petitioner's asset calculation show that Petitioner's assets are greater than \$600 making Petitioner ineligible for the burial benefit.
5. On February 10, 2020, the Department notified Petitioner that there was no eligibility under the SER burial policy.
6. On February 14, 2020, Petitioner filed a hearing request.

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.

Specific SER policy applicable to the facts here are found primarily under ERM 306.

Here, Petitioner does not dispute the facts and/or the calculations of the Department. Rather, Petitioner argued at the administrative hearing that she did not feel that the result was fair.

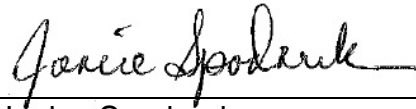
Administrative law judges have no equitable powers even where the ALJ were to agree that a policy is not or does not seem fair. Here, the facts support the denial under Department policy...

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 request for burial assistance under the ERM policy.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

JS/ml



Janice Spodarek
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

Kent (District 1 Franklin) County DHHS –
Via Electronic Mail

T. Bair – Via Electronic Mail

E. Holzhausen – Via Electronic Mail

Petitioner

[REDACTED] – Via First Class Mail
[REDACTED] MI [REDACTED]

Authorized Hearing Rep.

[REDACTED] – Via First Class Mail
[REDACTED] MI [REDACTED]