



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

██████████  
██████████  
██████████, MI ██████████

Date Mailed: October 2, 2020  
MOAHR Docket No.: 20-004999  
Agency No.: ██████████  
Petitioner: ██████████ ██████████

**ADMINISTRATIVE LAW JUDGE:** Aaron McClintic

### **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 September 23, 2020, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Lucas Photiou, Eligibility Specialist. Department Exhibit 1, pp. 1-17

### **ISSUE**

Did the Department properly deny Petitioner State Emergency Relief (SER) 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 June 2, 2020, Petitioner's son died.
2. On June 4, 2020, Petitioner's representative requested an application for SER for burial assistance.
3. On June 6, 2020, Petitioner's son was cremated.
4. On ██████████ ██████████ 2020, Petitioner applied for SER seeking burial assistance.
5. On June 23, 2020, State Emergency Relief Decision Notice was sent to Petitioner informing her that SER was denied because the application was submitted more than 10 days after cremation.
6. On July 27, 2020, Petitioner requested hearing disputing the denial of SER.

7. Petitioner credibly testified that she did not receive the SER application until June 22, 2020, after the deadline for requesting 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.

#### **Staff Responsibilities**

Staff must clearly explain SER burial eligibility requirements and program payment limits to any person making an inquiry. This includes the requirement that the application for SER burial must be submitted no later than 10 business days after burial, cremation or donation.

#### **Application**

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 (October 2019)

In this case, Petitioner credibly testified that her representative requested an application for SER on her behalf shortly after her son died on June 4, 2020. Petitioner credibly testified that she did not receive the application for SER in the mail until June 17, 2020. The Department representative who sent Petitioner the application for SER did not clearly explain SER burial eligibility requirements as required in ERM 306, including the requirement that application must be submitted no later than 10 days after cremation. If the Department representative had clearly explained the requirements Petitioner would not have waited to receive the application by mail. Petitioner filed her SER application within 10 days of receiving the application and therefore should be considered timely.

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 Petitioner's SER 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. Reinstate Petitioner's SER application going back to the date of application
2. Reprocess Petitioner's SER application and award benefits if Petitioner is found eligible.

AM/nr



---

Aaron McClintic  
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**

Tamara Morris  
125 E. Union St 7th Floor  
Flint, MI  
48502

Genesee Union St. County DHHS- via  
electronic mail

BSC2- via electronic mail

T. Bair- via electronic mail

E. Holzhausen- via electronic mail

**Petitioner**

██████████ - via first class mail

████████████████████

██████, MI

██████████