



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]

Date Mailed: November 25, 2020  
MOAHR Docket No.: 20-005717  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

### **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 21, 2020, from Detroit, Michigan. Petitioner is deceased. Petitioner was represented by her son, [REDACTED], Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by Denise Payton, Family Independence Manager and Alberta Frazier, Family Independence Specialist.

### **ISSUE**

Did the Department properly deny Petitioner's request for State Emergency Relief (SER) assistance with burial services?

### **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, an application for SER assistance with burial/cremation services in the amount of \$950 was submitted on Petitioner's behalf by her son, [REDACTED].
2. On August 19, 2020, the Department issued a State Emergency Relief Decision Notice denying the SER application because the total of the client contribution amount, the death benefit amount, and the funeral contract amount is greater than the total need amount. (Exhibit A, p. 12)
3. On August 31, 2020, the Department received a request for hearing from Petitioner's son disputing the denial of SER burial assistance for Petitioner.

4. Petitioner's AHR confirmed that Petitioner had monthly income of \$1,012 in Social Security and \$[REDACTED] from a monthly pension. The request for hearing indicates that a Basic Cremation package was purchased for \$950 and that the family was to contribute \$364 as a deposit towards the costs of the funeral. (Exhibit A, pp. 7-11)

### **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.

SER assists with burial or cremation when the decedent's estate, mandatory copays, etc. are not sufficient to pay for services. A memorial service, which includes viewings or visitations, is also included if the funeral director is in attendance at the service. ERM 306 (December 2019), pp. 1-4. The Department will authorize payment for burial or cremation services at the rates charged by the provider up to the maximum payments specified in table found in ERM 306. ERM 306, pp. 8-9. Through the request for hearing, Petitioner's AHR confirmed that a cremation and memorial services package was arranged for Petitioner with the funeral home. (Exhibit A, p. 6). Department policy provides that the maximum payment for SER burial services of cremation with memorial service is \$600 (\$455 for payment to the funeral director and \$145 for payment to the cemetery or crematory). ERM 306, pp. 10-11.

The Department will determine mandatory copayments from responsible relatives based on the SER Group Composition policy found in ERM 201. ERM 306, p. 4. The amount of the mandatory copayment is equal to the asset copayment plus the income copayment. ERM 306, p. 8. Friends/relatives may supplement the SER burial payment in any amount up to \$4,000, which is considered a voluntary contribution.

No evidence was presented that Petitioner had any assets; therefore, there is no asset copayment.

The income copayment is the net income received or expected to be received by the decedent and the surviving responsible relative during the 30-day countable income period in excess of the applicable basic monthly income need standard for the number of group members. ERM 306, p. 8; ERM 208 (December 2019), p. 1.

Although Petitioner's AHR testified that he did not have access to Petitioner's funds/income as he was not her power of attorney, Department policy provides that Petitioner's income is required to be considered and used to resolve the emergency. ERM 306, p. 8. The Department will consider income expected to be received by the decedent and the group members during the 30-day countable income period to determine the income copayment. There was no evidence that Petitioner had a spouse or other responsible relative in the household, thus, her group size is one. The monthly income need standard for a group size of one is \$445.00. ERM 208, p. 6; ERM 206, p. 6. In this case, Petitioner's AHR confirmed that Petitioner had monthly income of \$1,012 in Social Security and \$[REDACTED] from a monthly pension. Verification of the income was presented during the hearing. Because Petitioner's \$1,205.58 income during the countable period exceeded the \$445 basic monthly income need standard by \$760.58, her income copayment was \$760.58.

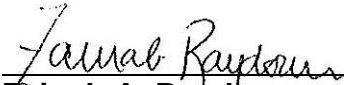
Copayment amounts are deducted from the cost of resolving the emergency. ERM 208, p. 2. The request for hearing indicates that a Basic Cremation package was purchased for \$950 and that the family contributed \$364 as a deposit to the funeral home for the memorial, resulting in \$586 to resolve the emergency. (Exhibit A, pp. 7-11). Petitioner's AHR did not present any evidence to the contrary during the hearing suggesting that the requested amount to resolve the emergency was greater. Petitioner's mandatory copayment of \$760.58 exceeded the \$586 cost of resolving the emergency (the remaining requested relief). Therefore, Petitioner was ineligible for SER burial assistance, and the Department properly denied Petitioner's SER application.

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 SER assistance with burial.

### **DECISION AND ORDER**

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

ZB/jem

  
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**Zainab A. Baydoun**  
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-15-Greydale-Hearings  
BSC4-HearingDecisions  
T. Bair  
E. Holzhausen  
MOAHR

**Authorized Hearing Rep. – Via USPS:**

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████████████████████  
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**Petitioner – Via USPS:**

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