



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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██████████, MI ██████████

Date Mailed: July 30, 2021
MOAHR Docket No.: 21-002668
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 July 15, 2021, from Lansing, Michigan. The Petitioner who is deceased was represented by his brother and authorized representative, ██████████. The Department of Health and Human Services (Department) was represented by Rebecca Ferrille, Assisted Payments Supervisor.

ISSUE

Did the Department properly deny the Petitioner’s application for State Emergency Relief (SER)?

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 ██████████ ██████████ ██████████ the Petitioner died.
2. On April 1, 2021, the Petitioner was cremated.
3. On ██████████ ██████████ 2021, the Department received a SER application for cremation that was signed on April 16, 2021, by the Petitioner’s brother and authorized representative. Department Exhibit 1, pg. 8.
4. On April 21, 2021, the Department sent the Petitioner a SER Decision Notice, DHS 1419, that the application was denied because Department policy requires the application to be filed within 10 business days after cremation, per ERM 306, page 1. The Petitioner’s cremation occurred on April 1, 2021, but the application was not received to the Department until 20 days later, on April 21, 2021. Department Exhibit 1, pg. 10.

5. On May 26, 2021, the Department received a hearing request from the Petitioner's brother and authorized representative.

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 Petitioner died on [REDACTED] [REDACTED] [REDACTED]. On April 1, 2021, the Petitioner was cremated. On April 21, 2021, the Department received a SER application for cremation that was signed on April 16, 2021, by the Petitioner's brother and authorized representative. Department Exhibit 1, pg. 8.


On April 21, 2021, the Department sent the Petitioner a SER Decision Notice, DHS 1419, that the application was denied because Department policy requires the application to be filed within 10 business days after cremation, per ERM 306, page 1. The Petitioner's cremation occurred on April 1, 2021, but the application was not received to the Department until 20 days later, on April 21, 2021. Department Exhibit 1, pg. 10. On May 26, 2021, the Department received a hearing request from the Petitioner's brother and authorized representative.

DECISION AND ORDER

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 determined that the SER application for cremation received by the Department on April 21, 2021, but signed on April 16, 2021, was not within the 10 business days required by Department policy when the Petitioner was cremated on April 1, 2021.

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

CF/nr


Carmen G. Fahie
Administrative Law Judge

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

Electronic Mail Recipients:

MDHHS-GrandTraverse-Hearings
BSC1
E. Holzhausen
T. Bair
MOAHR

Authorized Hearing Rep. – Via USPS:

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Petitioner – Via USPS:

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