



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: March 16, 2022
MOAHR Docket No.: 21-005086
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 March 9, 2022. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Priya Johnson, Assistance Payments Supervisor, and Madison Gonzalez, Eligibility Specialist.

ISSUE

Did MDHHS properly deny Petitioner's State Emergency Relief (SER) application for 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 ██████████ 2021, Petitioner submitted an SER application for the September 26, 2021 burial service of her mother, ██████████. Petitioner requested \$3,870.00 in SER assistance for the cost of the burial services.
2. On October 12, 2021, MDHHS issued a SER Decision Notice informing Petitioner that her request for assistance totaling \$3,570.00 was denied because the total client contribution amount, death benefit amount and funeral contract amount was greater than the total need amount (Exhibit A, pp. 6-8).
3. On October 22, 2021, MDHHS received the timely submitted hearing request from Petitioner disputing the denial of her SER application (Exhibit A, pp. 3-5).

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 when the decedent's estate, mandatory copays, etc. are not sufficient to pay for a burial. ERM 306 (October 2020), p. 1. In this case, the SER Denial Notice provided that the Petitioner's application was denied because "the total client contribution amount, death benefit amount and funeral contract amount was greater than the total need amount." Department policy requires mandatory copayments when the decedent has "responsible relatives" (defined as spouses or parents for children and stepchildren under age 18), has cash or noncash assets at death, received any income during the 30-day countable income period, or had a prepaid funeral contract in excess of the maximum allowable charge for services provided. ERM 306, pp. 4-9.

Here, decedent was the mother of adult Petitioner. Therefore, Petitioner is not a responsible relative, and her income and assets should not be used in determining any copayment amount. MDHHS did not present any evidence that the decedent had any assets or income at the time of her death. Petitioner testified that the decedent had no income or assets. Petitioner testified that the decedent died suddenly, and no pre-paid funeral contract was arranged. MDHHS did not present the actual amounts determined for death benefit amount, client contribution amount or identify the amount of the total need. MDHHS agreed that the denial reason stated in the SER Decision Notice was not the reason for denial and was not very clear. In the absence of supporting evidence, MDHHS has failed to establish that there was any copayment due from the decedent or her estate. Therefore, MDHHS has failed to satisfy its burden that it acted in accordance with policy when it denied Petitioner's SER application for burial services.

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 MDHHS 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. Reprocess the SER [REDACTED] 2021 application;
2. If eligible, issue SER supplements in accordance with Department policy;
3. Notify Petitioner in writing of its decision.

DN/mp



Danielle Nuccio
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

