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GOVERNOR

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

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DIRECTOR

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Date Mailed: September 28, 2022
MOAHR Docket No.: 22-003390
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 held on August 31, 2022 via teleconference. ██████████ appeared on behalf of Roger Carswell (Decedent/Petitioner) as his Authorized Representative (AR). Priya Johnson, Assistance Payments Supervisor, represented the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly determine that Petitioner received an overissuance of State Emergency Relief (SER) for burial assistance?

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 ██████████, 2022, AR applied for SER for assistance with burial services for Decedent (Exhibit A, p. 1). AR notified MDHHS that the total cost for the funeral services was approximately \$██████████.
2. On June 23, 2022, MDHHS sent AR a SER Decision Notice indicating burial services for Decedent were approved in the amount of \$██████████ (Exhibit A, p. 6).
3. On July 11, 2022, MDHHS sent a letter to the ██████████ indicating that the SER funds were approved in error and requesting that the funeral home return the payment of \$██████████ to MDHHS (Exhibit A, p. 9).

4. On [REDACTED], 2022, AR requested a hearing to dispute MDHHS' determination that the SER burial assistance was approved in error (Exhibit A, p. 3).
5. On August 12, 2022, MDHHS sent AR a Benefit Notice, which denied her request for SER burial services (Exhibit A, p. 10). The notice indicated that the request for SER burial services for Decedent should have been denied because the contribution exceeded the SER maximum amount allowed policy (ERM 306) (Exhibit A, p. 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 MDHHS pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In this case, MDHHS determined that Petitioner was not eligible for SER burial assistance because the family contribution exceeded the maximum amount allowed by policy. MDHHS initially approved AHR's request for burial services on June 23, 2022, paid \$[REDACTED] to the funeral home and then reversed course after it discovered the error. As of the date of the hearing, MDHHS had contacted the funeral home to recover the funds that were previously paid in error but had not yet received a response.

SER provides burial assistance when the decedent's estate is not sufficient to pay for burial, cremation, and other costs. ERM 306 (October 2021), p. 1. Any relative may apply for SER burial assistance as an authorized representative (AR). *Id.* To determine eligibility for SER burial assistance, MDHHS must determine the SER group composition. ERM 201 (October 2020), p. 1. A single SER group consists of persons who occupy the same home. *Id.* Home means the place where the members of the SER group keep their personal belongings and sleep. *Id.* Adults and dependent children who normally live together are in the same SER group. *Id.* Persons temporarily absent due to illness or employment are in the same group. *Id.* For SER burials, the deceased person is an included group member; 18 to 21-year-old children of the deceased parents of the burial group are not. *Id.*

In determining co-payments for SER burial benefits, MDHHS must determine the decedent's responsible relatives based on relationship to the decedent and whether decedent and the relatives were living together at the time of death. *Id.*, pp. 4-5. A spouse is considered a responsible relative for another spouse and parents are responsible relatives for their children and stepchildren under age 18. *Id.* Responsible

relatives who have been absent for the home for at least 90 days are not part of the SER group. *Id.*

Friends and relatives may supplement SER burial payment in any amount up to \$4,000.00 for additional services. ERM 306, p. 8. There must be a signed statement from the friend or relative indicating the amount of their contribution. *Id.* The contribution does not have to be paid prior to the SER payment authorization. *Id.* MDHHS must deny the SER application if the friends and relatives contributions exceed \$4,000.00 or if the total cost of the burial exceeds the SER maximum payment allowed plus the voluntary contribution. *Id.*, p. 9.

Here, MDHHS determined that the family contribution exceeded \$ [REDACTED] based on a statement from the funeral home, which indicated that the charges for the burial were \$ [REDACTED] (Exhibit A, p. 5). MDHHS previously approved Petitioner for [REDACTED] for burial assistance (Exhibit A, p. 6). MDHHS determined the amount of the family contribution by subtracting \$ [REDACTED] from \$ [REDACTED], which equaled \$ [REDACTED].

AR testified that she was Decedent's sister, and that Decedent was living with her and their mother at the time of Decedent's death. AR further testified that the total cost of Decedent's funeral exceeded \$ [REDACTED] and that Decedent's siblings who did not live with decedent at the time of his death contributed at least \$ [REDACTED]. Decedent's siblings were not part of Decedent's SER group.

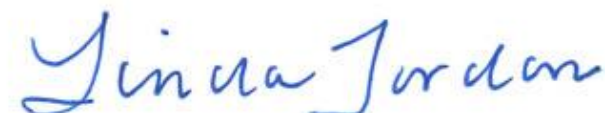
Based on the record from the funeral home and AR's testimony, the voluntary family contribution exceeded \$ [REDACTED] which made Petitioner ineligible for SER burial assistance pursuant to policy. MDHHS is responsible for correcting SER issuances made in error. ERM 401 (October 2021), p. 3. MDHHS is required to initiate a collection action on all overissuances regardless of the case status. *Id.* When an overissuance is found, it is the responsibility of the MDHHS specialist to determine the amount and send communication to the provider for refund. *Id.*, p. 4.

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 properly determined that Petitioner's SER burial assistance was approved in error and followed policy when it attempted to correct the overissuance.

DECISION AND ORDER

Accordingly, MDHHS' decision is **AFFIRMED**.

LJ/tm



Linda Jordan
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

Via-Electronic Mail :

DHHS
Linda Gooden
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
**MDHHS-Oakland-6303-
Hearings@michigan.gov**

Interested Parties
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BSC4
MOAHR

Via-First Class Mail :

Authorized Hearing Rep.

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██, MI ██████████

Petitioner

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