



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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Date Mailed: March 17, 2023  
MOAHR Docket No.: 23-000456  
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 6, 2023. Petitioner is deceased. Petitioner was represented by his son, ██████████. A representative from the Department of Health and Human Services (MDHHS) did not appear for the hearing and the hearing was held in the absence of the Department.

Petitioner agreed to the admission of the 20-page hearing packet submitted by MDHHS prior to the hearing. These documents were admitted into evidence as Exhibit A.

**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 ██████████ 2023, MDHHS received a SER application submitted by Petitioner's son, also named ██████████. Petitioner's son requested assistance with burial expenses from Petitioner's death. Petitioner's son filled out the application. Petitioner's son stated that burial costs were \$2,000.00 and that he had made a \$300.00 deposit (Exhibit A, pp. 6-17).
2. On January 12, 2023, MDHHS received from Petitioner's son the invoice from Petitioner's burial, stating that \$800.00 has been paid and \$1,970.50 remains to be owed (Exhibit A, p. 20).

3. On January 19, 2023, MDHHS issued a SER Decision Notice informing Petitioner's son that his request for assistance is denied because his contribution amount is insufficient. This notice was issued to Petitioner's former address. (Exhibit A, pp. 18-19).
4. On January 20, 2023, MDHHS received the timely submitted hearing request from Petitioner's son disputing the denial of his SER application (Exhibit A, p. 4-5).

### **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.

A MDHHS representative did not participate in the hearing. The hearing summary prepared by MDHHS was read into the record, stating that:

Client applied for SER Burial on [REDACTED]. Worker was unable to reach for interview and processed with information given. Application was denied due to family contribution amount being insufficient. Also, per ERM 306, the Statement of Goods was not signed by the application nor was it itemized by any payments that they had made to show anything they had done at time of application. Therefore, it was a good denial. Supervisor was unable to reach client for a pre-hearing conference as there was no phone number on the request.

As a preliminary matter, it is noted that, for SER assistance with burial services, any relative of the client can apply as an authorized representative. ERM 306 (October 2022), p. 1. Therefore, Petitioner's son had authority as an authorized representative to apply for SER burial benefits for Petitioner. ERM 102 (October 2020), p. 2, expressly provides that "any applicant" for SER services has the right to request a hearing regarding MDHHS' SER action. Because MDHHS policy allowed Petitioner's son to apply for SER burial assistance, it follows that he has the right to request a hearing concerning the denial of such assistance. Accordingly, the issue of whether MDHHS properly denied the SER application for burial assistance was considered at the hearing.

SER assists with burial when the decedent's estate, mandatory copays, etc. are not sufficient to pay for a burial. ERM 306, p. 1. Department policy requires mandatory

copayments when the decedent has no “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, p. 4-9. Friends and relatives may supplement the SER burial payment in any amount up to \$4,000 for additional services. There must be a signed statement from the friend/relative indicating the amount of their contribution. The contribution does not have to be paid prior to the SER payment authorization. ERM 306, p. 8.

In this case, the SER Denial Notice provided that the Petitioner’s application was denied because “the contribution amount is insufficient.” Petitioner’s son applied for SER services on behalf of deceased Petitioner. Petitioner’s son is not a responsible relative, and his income and assets should not be used in determining any copayment amount. MDHHS did not present any evidence that Petitioner had any assets at the time of death, received any income at any time after his death, or had a prepaid funeral contract. In the absence of such evidence, the Department has failed to establish that there was any contribution due from Petitioner or his 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.

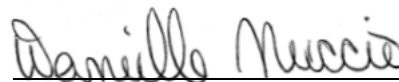
### **DECISION AND ORDER**

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 [REDACTED] 2023 SER 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

**Via-Electronic Mail :**

**DHHS**  
MDHHS-Lenawee-Hearings  
E. Holzhausen  
K. Schulze  
MOAHR  
BSC4

**Via-First Class Mail :**

**Petitioner**  
[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]