



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: October 13, 2023
MOAHR Docket No.: 23-004557
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 September 14, 2023, via teleconference. Petitioner, [REDACTED] [REDACTED] appeared and represented himself regarding burial benefits for [REDACTED] [REDACTED] (the Decedent). Melissa Stanley, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly deny Petitioner's request for State Emergency Relief (SER) 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 March 4, 2023, [REDACTED] [REDACTED] (the Decedent) passed away (Exhibit A, p. 21).
2. On March 10, 2023, the Decedent was cremated (Exhibit A, p. 23).
3. On [REDACTED] [REDACTED] 2023, Petitioner applied for SER services for assistance with burial services for the Decedent (Exhibit A, p. 8).
4. On June 9, 2023, MDHHS sent Petitioner an Application Notice indicating that his application for SER services for burial assistance was denied (Exhibit A, p. 24).

5. On August 3, 2023, Petitioner filed a Request for Hearing to dispute the denial of his application for SER services (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 MDHHS pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In this case, MDHHS denied Petitioner's request for SER services to help pay for burial services for the Decedent because it alleged that Petitioner's request was not made timely.

SER assists with burial when the decedent's estate, mandatory copays, etc. are not sufficient to pay for burial, cremation, costs associated with donation of a body to a medical school, cremation permit fee for an unclaimed body and mileage costs for an eligible cremation of an unclaimed body. ERM 306 (October 2022), p. 1. Staff must clearly explain SER burial eligibility requirements and program payment limits to any person making an inquiry. *Id.* This includes the requirement that the application for SER burial be submitted no later than ten business days after burial, cremation, or donation. *Id.* An application for SER burial must be made no later than ten business days after the date the burial, cremation or donation takes place. *Id.*

Here, MDHHS alleged that the request was untimely because it verified with the funeral home that Decedent was cremated on March 10, 2023, and it did not receive Petitioner's request for SER burial services until [REDACTED] 2023, which was well beyond the ten-day deadline. At the hearing, Petitioner credibly testified that the [REDACTED] 2023, application was not the first application for SER that he made. He testified that he went to the local MDHHS office in-person on before the burial of Decedent, which was a day or two after the cremation, or on or about March 13, 2023. He stated that he inquired about SER services at that time and submitted an application, however, he did not hear anything back from MDHHS. This prompted him to follow up and submit the second application. MDHHS did not have a record of Petitioner's first inquiry, application and/or visit to the local office on or about March 13, 2023.

Based on Petitioner's testimony, he inquired about SER burial services and applied on or about March 13, 2023, which was before the deadline for submitting an application for SER burial services. MDHHS was required to inform any potential applicant about the program's requirements, including the 10-day deadline, pursuant to ERM 306.

Although MDHHS had no record of Petitioner's first attempt to submit an application, Petitioner's testimony was credible and un rebutted.

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 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**.

MDHHS 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. Reregister Petitioner's SER application and redetermine eligibility for SER, effective March 13, 2023, ongoing.
2. Issue supplemental payments to Petitioner for an SER services he was eligible to receive but did not; and
3. Notify Petitioner of its decision in writing.



LJ/nr

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
Elisa Daly
Saginaw County DHHS
411 East Genesee
Saginaw, MI 48607
**MDHHS-Saginaw-
Hearings@michigan.gov**

Interested Parties
Saginaw County DHHS
BSC2
J. McLaughlin
T. Bair
MOAHR

Via-First Class Mail :

Petitioner
[REDACTED]
[REDACTED], MI [REDACTED]

Petitioner
[REDACTED]
[REDACTED], MI [REDACTED]