



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: October 17, 2023
MOAHR Docket No.: 23-004893
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 September 28, 2023. Petitioner, who is deceased, was represented by Authorized Hearing Representative, [REDACTED]. The Department of Health and Human Services (MDHHS) was represented by Rose Ward, Assistant Payments Supervisor.

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 [REDACTED] 2023, MDHHS received a SER application submitted by Petitioner's granddaughter/AHR, [REDACTED]. AHR requested assistance with burial expenses from Petitioner's death (Exhibit A, pp. 11-25).
2. Petitioner had a life insurance policy in the amount of \$[REDACTED] (Exhibit A, p. 15).
3. On July 10, 2023, MDHHS received the invoice from Petitioner's burial, stating that a balance remains of \$[REDACTED] (Exhibit A, pp. 9-10).
4. On July 11, 2023, MDHHS issued a SER Decision Notice informing AHR that her application was denied because the total of the client contribution amount, the death benefit amount, and the funeral contract amount is greater than the total need amount (Exhibit A, pp. 6-8).

5. On August 15, 2023, MDHHS received the timely submitted hearing request from AHR disputing the denial of her SER application (Exhibit A, pp. 3-4).

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.

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, AHR, as Petitioner's granddaughter, 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 AHR to apply for SER burial assistance, it follows that she 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. In this case, the SER Denial Notice stated that 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." ERM 306 (October 2022), p. 1. For a service consisting of a cremation with memorial service, such as Petitioners, the maximum SER payment made is \$600.00. ERM 306, p. 10. Life insurance, when the beneficiary is a responsible relative, is deducted from the SER payment. ERM 306, p. 6. "Responsible relative" is defined as "spouse for spouse" and "parents for children and stepchildren under age 18". ERM 306, p. 5.

In this case, AHR applied for \$[REDACTED] for the memorial and cremation of her grandmother. Since AHR and Petitioner are a grandparent/grandchild relationship, AHR is not a responsible relative to Petitioner. It is unclear who the beneficiary of the life insurance policy that Petitioner held is. The life insurance policy should not have been deducted from the SER payment when determining eligibility. 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.

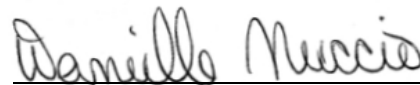
DECISION AND ORDER

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 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 :

Interested Parties

MDHHS-Lake-Hearings
E. Holzhausen
J. McLaughlin
MOAHR
BSC3

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]