



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
Post Office Box 1736
Romney, WV 26757

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

November 8, 2005

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 1, 2005. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for Burial Assistance.

In arriving at a decision, the State Hearings Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

Eligibility for the Burial Program is based on current policy and regulations. Some of these regulations state as follows: Payment for burial expenses CANNOT BE MADE unless the application form has been completed and the applicant found eligible for payment AND the date of interment or cremation did not occur more than 30 days prior to the date of application.

The information, which was submitted at your hearing, revealed that your application for Burial Assistance was made 34 days following the interment.

It is the decision of the State Hearings Officer to uphold the actions of the Department to deny Burial benefits.

Sincerely,

Sharon K. Yoho
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Hubbard, DHHR

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW**

_____,

Claimant,

v.

Action Number: 05-BOR-6578

**West Virginia Department of
Health and Human Resources,**

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on November 1, 2005 for _____. This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened on November 1, 2005 on a timely appeal, filed August 19, 2005.

II. PROGRAM PURPOSE:

The Program entitled Indigent Burial Program is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The purpose of the Indigent Burial Program is to provide a decent burial for persons who die and have no resources to pay for the interment costs at the time of death.

III. PARTICIPANTS:

Claimant's Witnesses:

_____, claimant
_____, claimant's husband

Department's Witnesses:

Ann Hubbard, DHHR

Presiding at the Hearing was Sharon K. Yoho, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Department took the correct action in denying the application for payment under the Indigent Burial Program for the claimant's child.

V. APPLICABLE POLICY:

WV Income Maintenance Manual §19.5

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Notice of denial of Burial Assistance application dated August 17, 2005

D-2 WV Income Maintenance Manual §19.5.

VII. FINDINGS OF FACT:

- 1) The claimant's 5-month-old baby passed away the first part of July 2005.
- 2) The director at Brown's Funeral Home provided Ms. _____ with the appropriate forms to apply for Burial Assistance through the WV Department of Health and Human Resources (WVDHHR). The Funeral Director did not advise the claimant of any deadline for completing the application with the Department.
- 3) The burial date for the claimant's baby was July 12, 2005.
- 4) Ms. _____ came to the WVDHHR office on August 15, 2005 to complete the application for Burial assistance. The Department issued a notice of denial on August 17, 2005. Reason noted on the denial notice was: "Payment for burial expenses can not be made unless the application form has been completed and the applicant found eligible for payment and the date of interment or cremation did not occur more than 30 days prior of application."
- 5) The claimant completed her application 34 days following the interment.
- 6) WV Income Maintenance Manual §19.5 B.7:

Application Submittal Deadline

Payment for burial expenses CANNOT BE MADE unless the application form has been completed and the applicant found eligible for payment AND the date of interment or cremation did not occur more than 30 days prior to the date of application.

7) WV Income Maintenance Manual §19.5 C:

The burial rate of \$1,250 is the MAXIMUM amount that will be disbursed by the Department. This rate will apply for ALL burials. Under no circumstance is this rate negotiable regardless of the specific burial plan desired by the applicant.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear that the application must be completed within 30 days of the interment. Testimony and evidence presented show that the claimant did not complete her application within the 30-day time limit.

IX. DECISION:

It can be concluded that this claimant was not made aware of a deadline for completing the application however; this does not negate the responsibility of the worker to follow policy. It is the ruling of this Hearing Officer that the Department followed policy in denying burial benefits. I rule to uphold the Department in its actions.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 8th Day of November 2005.

**Sharon K. Yoho
State Hearing Officer**