



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 East Third Avenue
Williamson, WV 25661**

**Jim Justice
Governor**

**Bill J. Crouch
Cabinet Secretary**

September 29, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-2363

Dear Ms. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

In arriving at a decision, the State Hearing 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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: Trish Mullins, Economic Service Supervisor

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

██████████,

Appellant,

v.

ACTION NO.: 17-BOR-2363

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the WV Department of Health and Human Resources' (WV DHHR) Common Chapters Manual. This fair hearing was convened on September 21, 2017, on an appeal filed August 25, 2017.

The matter before the Hearing Officer arises from the July 17, 2017, decision by the Respondent to deny an application for the Indigent Burial Program on the Appellant's behalf. The Appellant died on May 29, 2017.

At the hearing, the Respondent appeared by Trish Mullins, Economic Service Supervisor for the WV DHHR, ██████████ County Office. The Appellant, deceased, was represented by his mother ██████████.

Department's Exhibits:

- D-1 WV DHHR Burial Billing Form, DFA-67-A, signed by Funeral Director of ██████████, dated July 5, 2017, and WV DHHR Application for Burial Benefits, form DFA-BU-1, dated July 6, 2017
- D-2 Letter to Appellant's mother, dated July 17, 2017
- D-3 WV DHHR Income Maintenance Manual, Chapter 19, §19.5.B.6

Appellant's Exhibits:

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Appellant died May 29, 2017. [REDACTED], provided cremation services on his behalf on June 1, 2017 (Exhibit D-1).
- 2) The Appellant's mother requested assistance with paying the Appellant's funerary costs. She signed an Application for Burial Benefits form, form DFA-BU-1 (Exhibit D-1, pages 3-4), on July 6, 2017.
- 3) Also on July 6, 2017, a representative of the funeral home signed form DFA-67-A, Burial Billing Form (Exhibit D-1, pages 1-2), to request payment for the funerary services.
- 4) The Appellant's mother submitted both of these forms to the WV DHHR, [REDACTED] County office, on July 6, 2017.
- 5) On July 17, 2017, the Department denied the application because the Department did not receive it within 30 days of the June 1, 2017 cremation date (Exhibit D-2).
- 6) The Appellant's mother requested a fair hearing based on the Department's decision to deny the application for the Indigent Burial Program on her son's behalf.

APPLICABLE POLICY

The WV DHHR Income Maintenance Manual, Chapter 19, Sections 19.5.B.6, 19.5.E.1, 19.5.E.3 and 19.5.F read as follows respectively, in part, regarding the application process for the Indigent Burial Program:

Payment for burial expenses cannot be made unless the application form, DFA-BU-1, 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.

Form DFA-BU-1, Application for Burial Expenses, will be used in taking applications for payment of burial expenses.

Form DFA-BU-1 must be completed when an individual is applying for burial assistance. Payment for burial expenses cannot be made unless this form has been completed, 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 DFA-67-A, Burial Billing Form, is completed by the Funeral Home Director and submitted to the Department. It is used in the payment process for the purpose of determining the amount of payment to be made by the Department to the Funeral Home Director.

DISCUSSION

The Appellant's mother applied for the Indigent Burial Program in order to pay for the costs associated with his death on May 29, 2017. Her application and the funeral home's Billing Form were signed and dated July 6, 2017 (Exhibit D-1). The Department denied her application, notifying her of the denial by letter dated July 17, 2017 (Exhibit D-2).

The Department denied the application because the Appellant's mother and the funeral home representative signed and submitted the forms more than thirty days after the June 1, 2017 cremation date.

The Appellant's representative, his mother, testified that the funeral home would not give her the Burial Billing Form (Exhibit D-1) she needed to take to the DHHR until July 5, 2017. She testified that the funeral home director informed her the Indigent Burial Program's funds were exhausted for that fiscal year, and the funeral home had been instructed not to refer anyone to the DHHR until the new fiscal year began on July 1, 2017. She stated the funeral home director gave her the Burial Billing Form on July 5, 2017, but she could not submit it and the application to the DHHR until the next day.

The Department's representative testified that she was aware the Appellant's mother had attempted to get the billing form from the funeral home, but the director would not give it to her until after July 1. She testified that at the DHHR, if the Indigent Burial Program funds are exhausted before the fiscal year ends, individuals still may submit applications for the program, but payment for the funerary services is not guaranteed. She stated that the DHHR does not deny anyone the right to apply for any program. She added that it may be possible to accept an application when funds are exhausted and then delay making a decision on the application until after additional funds are available.

The Appellant's mother did not submit the Burial Billing Form and the Indigent Burial Program application until more than thirty days after the funeral home provided its services. Although the Appellant's mother and the Department's representative agreed that the funeral home would not provide the Burial Billing Form until after the beginning of the new fiscal year, the Appellant's mother had the opportunity to go to the [REDACTED] DHHR and complete an application form within the 30-day period.

Because the Appellant's mother did not submit her application for the Indigent Burial Program within 30 days of the date the funeral home provided its funerary services, the Department acted correctly to deny it.

CONCLUSION OF LAW

The Appellant's mother did not submit the Indigent Burial Program application and the Burial Billing Form until more than thirty days after the funerary services date, the deadline established by Program policy found in the WV Income Maintenance Manual at §19.5.B.6. Because the

Appellant's mother did not submit the forms within the proper time frame, the Department acted correctly to deny her application.

DECISION

It is the decision of the State Hearing Officer to UPHOLD the Department's proposal to deny an application for the Indigent Burial Program on the Appellant's behalf.

ENTERED this 29th Day of September 2017.

**Stephen M. Baisden
State Hearing Officer**