



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

May 9, 2008

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 8, 2008. Your hearing request was based on the Department of Health and Human Resources' action to deny payment of your daughter's burial expenses under the Indigent Burial Program.

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.

Eligibility for the Indigent Burial Program is based on current policy and regulations. Some of these regulations state that the deceased must have been a resident of West Virginia at the time of death in order to be eligible for a burial payment. Individuals who have left West Virginia for the purpose of residing in other states, or who have become residents in other states, and later de cease are ineligible for Burial Program benefits. (West Virginia Income Maintenance Manual Section 19.5, B, 1).

Information submitted at the hearing revealed that your daughter was not a resident of West Virginia at the time of her death.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny payment of burial expenses under the Indigent Burial Program.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Stephanie Rizzio, ESS, DHHR

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

_____, father of the late _____,

Claimant,

v.

Action Number: 08-BOR-1332

**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 May 9, 2008 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 via telephone on May 8, 2008 on a timely appeal filed May 1, 2008.

II. PROGRAM PURPOSE:

The 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 proper burial for persons who die and have no resources to pay for the interment costs at the time of death.

III. PARTICIPANTS:

_____, Claimant
Stephanie Rizzio, Economic Service Supervisor, DHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether the Department took the correct action in denying payment of burial expenses under the Indigent Burial Program.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Section 19.5

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 West Virginia Income Maintenance Manual Section 19.5
- D-2 Application for Burial Benefits dated May 1, 2008, Affidavit of Responsible Relative and Burial Billing Form from [REDACTED] Funeral Home
- D-3 Notice of Decision dated May 1, 2008
- D-4 Copy of obituary for _____ as it appeared in [REDACTED] newspaper
- D-5 Online Query for SSI information

VII. FINDINGS OF FACT:

- 1) The Claimant completed an Application for Burial Benefits (D-2) for his late daughter, _____, on May 1, 2008. At that time, the Claimant provided a Burial Billing Form (D-2) and signed an Affidavit of Responsible Relative (D-2) indicating that he could pay \$1,200 toward the maximum allowable payment (\$2,450) allowed by the Department.
- 2) The Department denied the Claimant's Application for Burial Benefits as indicated on a Notice of Decision (D-3) dated May 1, 2008. The denial letter states, in part:

Your application for burial benefits for _____ has been denied effective May, 2008. Here is why: _____ was not a resident of West Virginia at the time of her death.

- 3) The Economic Service Supervisor provided a copy of Ms. _____'s obituary which appeared in [REDACTED] newspaper on April 26, 2008. The obituary indicates that Ms. _____ was a resident of [REDACTED] Va. and passed away on April 21, 2008 in [REDACTED] (Virginia) [REDACTED]. In addition, the supervisor provided a copy of an Online Query (D-5) that the Department obtained via the RAPIDS computer system. The query indicates that Ms. _____ received benefits from the Social Security Administration at [REDACTED].
- 4) The Claimant did not deny that his daughter was a resident of Virginia, but stated that she visited him frequently and had many personal items at his residence at the time of her death. The Claimant testified that his only income is Social Security and SSI

benefits of around \$600 per month. He indicated that he does not have financial resources available with which to pay his daughter's cremation costs.

- 5) West Virginia Income Maintenance Manual Section 19.5, B (D-1) states, in part:

ELIGIBILITY REQUIREMENTS

When making the decision regarding the eligibility for payment of the burial rates, the Worker must give consideration to the following criteria.

1. Residence

The deceased must have been a resident of West Virginia at the time of death in order to be eligible for a burial payment. (See exception below.) Individuals who have left West Virginia for the purpose of residing in other states, or who have become residents in other states, and later decease are ineligible for Burial Program benefits.

Exception: One exception applies to the residence requirement. This occurs when a non-resident of West Virginia deceases while traveling or visiting in the state and has no family, friends, or institution in the state of his residence that will assume responsibility for the funeral arrangements or otherwise claim the body. The Worker must verify that this situation exists before the case may be found eligible for payment.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that a deceased individual must have been a resident of West Virginia at the time of death in order to qualify for burial payment through the Indigent Burial Program. Payment can be made, however, when a non-resident deceases while traveling or visiting the state of West Virginia and no one will assume responsibility for the body.
- 2) While testimony reveals that the Claimant's daughter spent extensive time visiting the Claimant's home in [REDACTED] documents presented by the Department establish that her official residence was in the State of Virginia. Evidence also reveals that the Claimant's daughter passed away in a Virginia hospital and would not qualify for an exception to the residency policy.
- 3) The Department acted correctly in denying the Claimant's application for payment of burial expenses based on failure to meet West Virginia residency requirements.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's action in denying payment for burial costs under the Indigent Burial Program.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 9th Day of May, 2008.

Pamela L. Hinzman
State Hearing Officer