



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

July 21, 2008

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 17, 2008. Your hearing request was based on the Department of Health and Human Resources' action to deny payment for 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 as follows: Payment for burial expenses cannot be approved unless the application form has been completed within 30 days of the date of interment or cremation. (West Virginia Income Maintenance Manual Section 19.5, B, 6).

Information provided during the hearing reveals that you completed a burial payment application for your late husband on April 1, 2008, more than 30 days past his date of interment.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny your application for 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
Stacy North, FSS, DHHR

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

_____,
Claimant,

v.

Action Number: 08-BOR-1471

**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 July 21, 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 on July 17, 2008 on a timely appeal filed June 2, 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
_____, Claimant's Case Manager, _____
Stacy North, Family Support 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, E

D-2 Notice of Decision dated April 1, 2008

VII. FINDINGS OF FACT:

- 1) The Family Support Supervisor testified that the [REDACTED] County DHHR Office received a Burial Billing Form (DFA-67-A) on January 30, 2008 from the funeral home handling arrangements for _____, the Claimant's husband. Mr. _____ was cremated on January 30, 2008.
- 2) The Claimant completed an application for benefits under the Indigent Burial Program on April 1, 2008.
- 3) The Department sent the Claimant a Notice of Decision (D-2) on April 1, 2008 which states, in part:

Your application for burial assistance has been denied effective 04/01/08. Here is why: The date of cremation occurred more than thirty days prior to the date of application.
- 4) The Family Support Supervisor testified that applications for the Indigent Burial Program must be made within 30 days of the date of interment/cremation in order for payment to be approved. While the Department received a Burial Billing Form from the funeral home on January 30, 2008, the supervisor stated that payment for burial expenses cannot be made unless the application (DFA-BU-1) is completed within the time limit specified in policy.
- 5) Neither the Claimant nor her case manager disputed information provided by the Department, however the Claimant testified that she has no resources with which to pay her husband's cremation expenses.

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

APPLICATION PROCESS

1. General Instructions

Although it is preferable that the application for payment of burial expenses be made by the surviving spouse or other close relative, the application may be made by the person who has accepted responsibility for making burial arrangements. This includes, but is not limited to, the Funeral Home Director, friends, and neighbors. All applicants must be at least the age of 18.

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

Form DFA-BU-2, Affidavit of Responsible Relative, is used to determine whether certain relatives, who are designated under State Law as liable for burial expenses, are financially able to make payment of all or part of the maximum payment allowed by the Department.

- 7) West Virginia Income Maintenance Manual Section 19.5, B, 6 (D-1) states, in part:

Application Submittal Deadline

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.

- 8) West Virginia Income Maintenance Manual Section 19.5, F states:

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.

VIII. CONCLUSIONS OF LAW:

- 1) Policy clearly states that payment of burial expenses under the Indigent Burial Program cannot be approved if the application date is more than 30 days following the date of interment or cremation.
- 2) While the funeral home submitted a Burial Billing Form (invoice) to the Department in regard to expenses incurred in Mr. _____'s January 30, 2008 cremation, the Claimant did not apply for burial benefits until April 1, 2008.

- 3) As the application was not made within the policy-specified time frame, the Department acted correctly in denying payment of expenses under the Indigent Burial Program.

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 21st Day of July, 2008.

Pamela L. Hinzman
State Hearing Officer