



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

September 9, 2008

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 3, 2008. 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
Dan Pyles, DHHR

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

_____,

Claimant,

v.

Action Number: 08-BOR-1500

**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 September 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 on September 3, 2008 on a timely appeal, filed April 2, 2008.

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

Department's Witnesses:
Dan Pyles, 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 son.

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 March 28, 2008
- D-2 Burial Billing form dated March 20, 2008
- D-3 Application for Burial Benefits dated March 20, 2008
- D-4 Affidavit of Burial Cost form
- D-5 Affidavit of Responsible Relative dated March 20, 2008
- D-6 WV Income Maintenance Manual §19.5
- D-7 Case comments February 5, 2008 thru March 20, 2008

VII. FINDINGS OF FACT:

- 1) The Claimant made application for Long Term Care benefits for her adult son on February 5, 2008. Her son was at that time in the Hospital with a terminal condition, and was to be released to [REDACTED]. The Claimant testified that she remembered the caseworker advising her that the Department had a burial program that could possibly help with burial cost in the event of her son's death.
- 2) The Claimant's son passed away on February 11, 2008 and she arranged for burial through [REDACTED] Funeral Home. The funeral director advised the Claimant of the burial program, but she did not tell the director that she wished to pursue payment through the program. She chose a casket, which was in the second step category for cost. The total cost of the burial was \$4,368.
- 3) The interment date was February 14, 2008. The family paid \$1968. of the cost of burial and the Claimant contacted the Department on March 19, 2008 to inquire about burial assistance. She was advised to come in and complete an application, which she did on March 20, 2008.

- 4) The Department processed the application on March 28, 2008 and made the determination that the application date of March 20, 2008 was beyond the 30 days allowed by policy for approval. The Department issued a notice of denial on March 28, 2008. Reason noted on the denial notice was: "Application for burial assistance must be made within 30 days of interment or cremation of the client. I regret to inform you that with this application being made more than 30 days from interment or cremation, that the State of West Virginia will not be participating in the burial cost."
- 5) The Claimant completed her application 34 days following the interment. She testified that she was not told that she had to apply within 30 days and that she thought the Department would automatically assist with the burial cost.
- 6) WV Income Maintenance Manual §19.5 B.6:

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.

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.
- 2) It is the responsibility of the client to inquire about programs offered by the Department and to ask question regarding application processes and eligibility requirements. The caseworker made the Claimant aware that there was a burial program prior to their being a need for the program. The funeral director advised her of the program. This Claimant did not seek additional information in a timely manner and therefore missed the opportunity to be considered for the benefit.

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. The Department is **upheld** in its decision to deny burial assistance.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 9th Day of September 2008.

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