

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES  
SUMMARY AND DECISION OF THE STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on April 6, 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 April 6, 2005 on a timely appeal, filed January 14, 2005.

It should be noted here that the claimant's benefits have not been continued pending a hearing decision.

**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 Friend, Authorized Representative  
Vicki Watson, DHHR Income Maintenance Representative

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 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 uncle.

**V. APPLICABLE POLICY:**

WV Income Maintenance Manual § 19.5

## **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

### Department' Exhibits:

- Exhibit D-1 Income Maintenance Manual §19.5
- Exhibit D-2 Application for Burial Benefits dated December 03/2004
- Exhibit D-3 Affidavit of Responsible Relative
- Exhibit D-4 Funeral Home billing statement dated November 20, 2004
- Exhibit D-5 Notice of denial dated December 08, 2004

### Claimants' Exhibits:

- Exhibit C-1 Signed authorization to allow Ms. \_\_\_\_\_ to represent claimant

## **VII. FINDINGS OF FACT:**

- 1) Claimant appeared at the Department of Health and Human Resources on December 03, 2004 to apply for burial benefits to assist in the payment of the burial performed for his uncle, \_\_\_\_\_.
- 2) \_\_\_\_\_ was reported to have had no income or assets prior to his death and therefore left no resources for which to pay his funeral expenses.
- 3) \_\_\_\_\_'s funeral services were performed by the \_\_\_\_\_ Funeral Home in the month of November 2004. The full cost of \$1590.00 was paid in November to the Funeral Home by the claimant.
- 4) The claimant obtained the resources for this payment from his friend, \_\_\_\_\_, who was not a family member of the deceased.
- 5) The claimant is attempting to be reimbursed by the Department for the cost of his uncles' funeral since he obtained the resources for the burial from a friend and wishes to pay her back.
- 6) Ms. \_\_\_\_\_ testified that the burial could not be postponed while the family pursued assistance with the burial cost. The body was not found until 5 days after the death. This is why she provided the funds to the claimant.

## **VIII. CONCLUSIONS OF LAW:**

- 1) West Virginia Income Maintenance Policy §19.5 -B4 states:  
If a responsible relative (i.e., one who is **LIABLE** or one who simply wishes to pay the allowable payment of \$2,450, the Worker must find the case ineligible for payment of burial.

**VIII. Section Continued:**

- 2) West Virginia Income Maintenance Policy §19.5 -E-2 states:  
Liability of Responsible Relatives  
As indicated in the Public Welfare Law §9-5-9, liability of relatives for support, certain relatives of the deceased who are financially able shall be responsible to pay the expenses of burial. These relative are listed in the order of priority:
  - The children
  - The father
  - The brothers and sisters
  - The motherIn many situations, other relatives (spouse, nephew, niece, etc.) who are NOT legally liable for payment of burial costs will take the responsibility for arranging the burial and make applications for burial expenses.
- 3) West Virginia Income Maintenance Policy §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.
- 4) Policy is clear that the payment of approved burial expenses is to be made to the Funeral Home and that this payment is only approved if there were no relatives, whether responsible or not, who have agreed to make the allowable payment of \$2,450.

**IX. DECISION:**

The claimant, a relative, who although was not designated as being responsible for the cost of burial, did pay the Funeral Director in full for his uncle's funeral costs. At the time of his application for services under the Burial Program, the Funeral Home was no longer owed. The Agency acted correctly in denying the application for benefits under Indigent Burial Program.

It is the decision of this State Hearing Officer, to **uphold** the Department's action to deny the burial application.

**X. RIGHT OF APPEAL:**

See Attachment

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May 10, 2005

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**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29