

CHAPTER 128

(HB 470)

AN ACT relating to administrative hearings and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.10-440 is amended to read as follows:

- (1) All hearings under this chapter shall be held before a qualified hearing officer, who may be a full-time employee of the cabinet, serve by contract, or be paid on a per diem basis in the discretion of the cabinet. After the conclusion of the hearing, the hearing officer shall ~~within thirty (30) days~~ make to the secretary a report and recommended order which shall contain a finding of fact and a conclusion of law. ~~If the secretary finds upon written request of the hearing officer that additional time is needed, the secretary may grant an extension.~~ The hearing officer shall serve a copy of his report and recommended order upon all parties of record to the proceeding, and they shall be granted the right to file within fourteen (14) days of receipt exceptions thereto. The secretary shall consider the report, exceptions, and recommended order and decide the case *within ninety (90) days. The secretary, for good cause, may take no more than an additional forty-five (45) days provided the secretary gives the parties written notice stating the good cause within the original ninety (90) day period.* The secretary's decision shall be served by mail upon all parties and shall be a final order of the cabinet.
- (2) Any party to a hearing under this subsection may be represented by counsel, may make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of these actions. *The secretary may promulgate administrative regulations to require that direct testimony be filed in writing prior to the hearing, either for all or some categories of cases.* The record of the hearing shall be open to public inspection, and copies thereof shall be made available to any person upon payment of the actual cost of reproducing the original except as provided in KRS 224.10-210.
- (3) *Unless all parties to the case agree in writing otherwise, the hearing officer shall conduct the hearing, complete the report and recommended order, and transmit the report and recommended order to the secretary no later than one hundred eighty (180) days after service of the written notice described in KRS 224.10-420(1) upon all named parties or service of the petition and demand for hearing pursuant to KRS 224.10-420(2) upon all named parties, whichever is applicable. Upon written request of the hearing officer or any party to the hearing, the secretary or secretary's designee, for good cause shown, may extend this deadline for a period not to exceed ninety (90) days. The secretary shall grant no more than two (2) ninety (90) day extensions under this subsection, unless the secretary and all parties to the case agree to the contrary in writing.*
- (4) *The secretary may promulgate administrative regulations to establish procedures and deadlines for submitting a written request for an extension pursuant to subsection (3) of this section. The secretary shall require that any written request for extension include a proposed date certain by which the hearing or report and recommended order, or both, will be completed.*
- (5) *Upon the failure of the hearing officer to make a report and recommended order to the secretary within the deadline set forth in subsection (3) of this section, including any extensions granted by the secretary pursuant to subsections (3) and (4) of this section, the secretary shall remove the case from the hearing officer. The secretary shall then:*
 - (a) *Decide the case within ninety (90) days after allowing the parties to supplement the record, if necessary; or*
 - (b) *Transfer the case to another qualified hearing officer for completion of the hearing or report and recommended order, or both, by a new deadline set by the secretary. The secretary shall make no more than one (1) transfer pursuant to this subsection.*
- (6) All hearings conducted pursuant to this chapter shall be open to the public except as provided in KRS 224.10-210.

Section 2. Whereas the timely disposition of administrative hearings is of utmost urgency and importance to the parties, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved April 4, 2006.