

**JUSTICE AND PUBLIC SAFETY CABINET
(Amendment)**

500 KAR 1:030. Request for hearing.

RELATES TO: KRS 61.315

STATUTORY AUTHORITY: KRS 61.315(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.315(2) authorizes payment to the surviving spouse and surviving children or parents of a police officer who dies in the line of duty. KRS 61.315(4) authorizes the Justice and Public Safety Cabinet to promulgate administrative regulations establishing criteria and procedures for death benefits for police officers who die in the line of duty. This administrative regulation provides the procedures for ~~applicable to~~ a claimant ~~who desires~~ to request a hearing for denial of ~~concerning claimant's eligibility for~~ benefits for the ~~paid on~~ death of a police officer ~~who has died~~ in the line of duty pursuant to KRS 61.315(4).

Section 1. Administrative Review.

(1) A claimant may, within thirty (30) days after notification of ineligibility by the claim administrator ~~office of the secretary~~, request a hearing before the secretary to review the claimant's request for death benefits. The ~~A~~ request for a hearing shall be:

(a) In writing;

(b) Received by office of the secretary within thirty (30) days of the date of the notice of ineligibility; and

(c) Set forth the exceptions taken to the notice of ineligibility. ~~Filed in writing with the office of the secretary within thirty (30) days of the date of the notice of ineligibility and shall set forth the exceptions taken to the initial determination of ineligibility.~~

(2) The hearing shall be held within ninety (90) ~~sixty (60)~~ days of receipt of the request for a hearing and shall be conducted by the secretary or the secretary's designated hearing officer. If a hearing officer conducts the hearing, the hearing officer shall submit findings of fact, conclusions of law, and a recommended decision to the secretary. The hearing shall be held at a time and place designated by the secretary or the designated hearing officer with written notice ~~being~~ sent to the claimant and the cabinet's representative, if any.

(3) The hearing shall provide the claimant and the cabinet's representative, if any, with an opportunity to be heard publicly, to be represented by counsel, and to put on proof by sworn witnesses, certified records, affidavits, exhibits, or other evidence as the hearing officer or secretary may determine to be required or useful in evaluating the claim. The claimant shall have the opportunity to cross-examine or rebut adverse testimony or evidence. The hearing shall be recorded and the original of the complete transcript shall be made a part of the claims record at claimant's cost, if requested by the claimant to be transcribed.

(4) Failure of the claimant or claimant's representative to appear at the hearing shall be deemed an abandonment of the claimant's request for a review of the decision adverse to the claimant's request for benefits unless within ten (10) days of the hearing good cause is shown to the secretary or the hearing officer for the claimant's failure to appear by means of affidavit filed with the secretary.

(5) The secretary or secretary's designated hearing officer ~~designated~~ may, whenever necessary, administer oaths, examine witnesses, or continue the hearing to facilitate the receipt of evidence.

(6) The claimant shall bear the burden of proof by substantial, reliable, and probative evidence.

(7) A ~~[No]~~ payment shall not be made of any portion of a death benefit ~~[shall be made]~~ until all determinations, hearings, and reviews ~~that~~~~[which]~~ may affect that payment have been completed.

(8) In conducting the hearing, the secretary or secretary's designated hearing officer shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedures, but he or she shall~~[must]~~ conduct the hearing in ~~[such]~~ a manner ~~[as]~~ to best ascertain the rights of the claimant. The secretary or secretary's designated hearing officer may additionally schedule a prehearing conference upon its own motion or motion of ~~a~~~~[the]~~ party to consider such matters that will aid in the simplification of the hearing or avoidance of costly or unnecessary proof or manner for presenting proof.

(9) Within sixty (60) days following the hearing, the secretary shall issue a written opinion, containing findings of facts and conclusions of law to support the decision. A copy of the decision shall be provided to all parties at their last known address. The decision of the secretary shall be the final decision of the cabinet.

(10) Upon a favorable decision to claimant, which has become final, payment shall be made to the claimant as soon thereafter as practicable, with the ~~[Justice]~~ cabinet presenting the claim to the State Treasurer within five (5) working days.

KEITH JACKSON, Secretary

APPROVED BY AGENCY: September 9, 2024

FILED WITH LRC: September 13, 2024 at 11:35 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held Tuesday, November 26, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until November 30, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Nathan Goens, Staff Attorney, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8216, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Nathan Goens

(1) Provide a brief summary of:

(a) What this administrative regulation does:

The administrative regulation provides the procedures for a claimant to request a hearing for denial of benefits for the death of a police officer in the line of duty pursuant to KRS 61.315(4).

(b) The necessity of this administrative regulation:

KRS 61.315(4) authorizes the Justice and Public Safety Cabinet to promulgate administrative regulations establishing criteria and procedures for death benefits for police officers as defined in KRS 61.315(1)(a) who die in the line of duty.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

The regulation is necessary to provide an understanding of the requirements related to requesting a hearing following the denial of a claim for benefits for the death of a police officer in the line of duty pursuant to KRS 61.315(4). This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

The administrative regulation establishes the procedures that govern a claimant's request for a hearing following the denial of benefits for the death of a police officer in the line of duty pursuant to KRS 61.315(4). It provides direction and information to Justice and Public Safety Cabinet employees tasked with processing benefit claims and members of the public filing benefit claims.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

The amendment of this administrative regulation updates terminology used and changes the timeframe in which hearings must be held related to denials of claims for line of duty death benefits.

(b) The necessity of the amendment to this administrative regulation:

This amendment is necessary to provide clearer guidance to Justice and Public Safety Cabinet employees tasked with processing line of duty death benefit claims and members of the public seeking line of duty death benefit claims.

(c) How the amendment conforms to the content of the authorizing statutes:

KRS 61.315(4) authorizes the Justice and Public Safety Cabinet to promulgate administrative regulations establishing criteria and procedures for death benefits for police officers as defined in KRS 61.315(1)(a) who die in the line of duty. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How the amendment will assist in the effective administration of the statutes:

This amendment provides clearer guidance to Justice and Public Safety Cabinet employees tasked with processing line of duty death benefit claims and members of the public filing line of duty death benefit claims.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

This regulation will affect the Justice and Public Safety Cabinet employees responsible for processing line of duty death benefit claims as well as those members of the public seeking line of duty death benefits.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Justice and Public Safety Cabinet employees and members of the public will have to become familiar with the procedures required for requesting hearings following the denial of a claim for line of duty death benefits.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

There will be no pecuniary cost associated with complying with the administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

As a result of compliance with the administrative regulation, members of the public seeking line of duty death benefits will better understand how to request a hearing following the denial of a line of duty death benefit claim, and Justice and Public Safety Cabinet employees will better understand how to process such a request.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

Because this is an ongoing program authorized by an existing statute, there will be no new administrative costs associated with this administrative regulation. However, the administrative body dedicates 15% of one attorney and one paralegal's job duties to administering the line of duty death benefit program, which costs approximately \$18,324.00 per year.

(b) On a continuing basis:

The administrative body dedicates 15% of one attorney and one paralegal's job duties to administering the line of duty death benefit program, which costs approximately \$18,324.00 per year.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

The administrative body uses agency funds to administer the line of duty death benefit program.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

The administrative regulation does not establish any fees.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

The administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied?

No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 61.315, 83A.087, 87A.088, 183.881, 446.010.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions:

The Justice and Public Safety Cabinet.

(a) Estimate the following for the first year:

Expenditures:The administrative regulation impacts how the Justice and Public Safety Cabinet and its employees operate but is not expected to increase expenditures.

Revenues:The administrative regulation does not generate revenue.

Cost Savings:Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):

No affected local entities have been identified.

(a) Estimate the following for the first year:

Expenditures:No affected local entities have been identified.

Revenues:No affected local entities have been identified.

Cost Savings:No affected local entities have been identified.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

No affected local entities have been identified.

(4) Identify additional regulated entities not listed in questions (2) or (3):

Members of the public who request a hearing following the denial of a claim for line of duty death benefits will be affected by this administrative regulation.

(a) Estimate the following for the first year:

Expenditures:Members of the public seeking line of duty death benefits will need to expend an unknown amount of time to become familiar with how to file a request for a hearing following the denial of claim for line of duty death benefits prior to requesting such a hearing. An amount for expenditures is unknown.

Revenues:The administrative regulation does not generate revenue.

Cost Savings:Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:

The administrative regulation impacts how the Justice and Public Safety Cabinet and its employees operate but is not expected to have a fiscal impact.

(b) Methodology and resources used to determine the fiscal impact:

The administrative regulation amends an existing administrative regulation. The administrative regulation was reviewed, and a fiscal impact was not identified.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate)

An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion:

The administrative regulation amends an existing administrative regulation. The administrative regulation was reviewed, and an overall negative or adverse major economic impact was not identified.