WEST VIRGINIA CODE: §19-2B-9

§19-2B-9. Hearings; judicial review.

(a) When any person is entitled to a hearing before the commissioner as authorized in this article, the commissioner shall hold such hearing and all of the pertinent provisions of article five, chapter twenty-nine-a of this code shall apply to and govern such hearing and the administrative procedures in connection with and following such hearing, with like effect as if the provisions of said article five were set forth in extenso in this subsection, except that the hearing shall be held in the county in which the establishment involved is located, or in which the affected person resides or has his or her principal place of business, or in Kanawha county, West Virginia, at the election of the commissioner. Any such hearing shall be held within the time limits hereinbefore specified in this article, unless there is a postponement or a continuance for good cause shown.

(b) For the purpose of any such hearing, the commissioner shall have the power and authority to issue subpoenas and subpoenas duces tecum, in accordance with the provisions of section one, article five, chapter twenty-nine-a of this code. All subpoenas and subpoenas duces tecum shall be issued and served within the time and for the fees and shall be enforced, as specified in section one, article five of said chapter twenty-nine-a, and all of the said section one provisions dealing with subpoenas and subpoenas duces tecum shall apply to subpoenas and subpoenas duces tecum issued for the purpose of a hearing hereunder. At any such hearing, the person who demanded the same may represent or be represented by an attorney-at-law admitted to practice before any circuit court of this state.

(c) After such hearing and consideration of all the testimony, evidence and record in the case, the commissioner shall make and enter an order deciding the matter in question. Such order shall be accompanied by findings of fact and conclusions of law as specified in section three, article five, chapter twenty-nine-a of this code, and a copy of such order and accompanying findings and conclusions shall be served upon all the parties and their attorneys of record, if any, in person or by registered or certified mail. The commissioner shall also cause a notice to be served with a copy of such order, which notice shall advise the parties of their right to judicial review, in accordance with the provisions of subsection (d) of this section. The order of the commissioner shall be final unless vacated or modified upon judicial review thereof in accordance with the provisions of subsection (d) of this section.

(d) Any party adversely affected by a final order made and entered by the commissioner after such hearing, held in accordance with the provisions of subsections (a) through (c) of this section, is entitled to judicial review thereof. All of the pertinent provisions of section four, article five, chapter twenty-nine-a of this code shall apply to and govern such review with like effect as if the provisions of said section four were set forth in extenso in this subsection, except that the petition shall be filed in the circuit court of the county in which the hearing before the commissioner was held.

WV Legislature

(e) The judgment of the circuit court shall be final unless reversed, vacated or modified on appeal to the Supreme Court of Appeals in accordance with the provisions of section one, article six, chapter twenty-nine-a of this code.

WV Legislature