WEST VIRGINIA CODE: §32B-2-11

§32B-2-11. Judicial review of orders.

(a) Any person aggrieved by a final order of the commissioner may obtain a review of the order in the circuit court of Kanawha County by filing, within sixty days after the entry of the order, a written petition requesting that the order be modified or set aside, in whole or in part. A copy of the petition for review shall be served upon the commissioner.

(b) Upon the filing of a petition for review, except where the taking of additional evidence is ordered by the court pursuant to the provisions of subsection (e) or (f) of this section, the court has exclusive jurisdiction of the matter and the commissioner may not modify or set aside the order, in whole or in part.

(c) The filing of a petition for review under the provisions of subsection (a) of this section, does not, unless specifically ordered by the court, operate as a stay on the commissioner's order, and the commissioner may enforce or ask the court to enforce the order pending the outcome of the review proceedings.

(d) Upon receipt of the petition for review, the commissioner shall certify and file in the court a copy of the order and the transcript or record of the evidence upon which it was based. If the order became final by operation of law under the provisions of subsection (d), section ten of this article, then the commissioner shall certify and file in court the summary order and evidence of its service upon the parties and an affidavit certifying that no hearing has been held and that the order became final pursuant to the provisions of subsection (d), section ten of this article.

(e) If either the aggrieved party or the commissioner applies to the court for leave to present additional evidence, and shows to the satisfaction of the court that there were reasonable grounds for failure to adduce the evidence in the hearing before the commissioner or other good cause, then the court may order the additional evidence to be taken by the commissioner under such conditions as the court considers proper.

(f) If new evidence is ordered to be taken by the court, then the commissioner may modify the findings and order by reason of the additional evidence and shall file in the court the additional evidence together with any modified or new findings or order.

(g) The court shall review the petition based upon the original record before the commissioner as amended under the provisions of subsections (e) and (f) of this section. The findings of the commissioner as to the facts, if supported by competent, material and substantive evidence, are conclusive. Based upon this review, the court may affirm, modify, enforce or set aside the order, in whole or in part.

(h) The judgment of the circuit court is subject to review by the Supreme Court of Appeals of

WV Legislature

this state.

WV Legislature