

# **WEST VIRGINIA CODE: §5-10A-4**

## **§5-10A-4. Determination by circuit court of ineligibility; jurisdiction; appeal.**

(a) If a participant, former participant or beneficiary informs the supervisory board within forty days after service of the notice as provided in section three of this article that he or she demands that the board seek a determination in circuit court, the board shall immediately file a petition in the circuit court in the county in which the board is located or in which the participant, former participant or beneficiary resides seeking that the court determine that the participant or former participant rendered less than honorable service as defined in section two of this article and that the affected participant, former participant or beneficiary is thereby ineligible to receive benefits. The circuit courts have jurisdiction to make the determinations.

(b) Upon the filing of a petition by a supervisory board, the circuit court shall give to the affected parties notice and an opportunity to be heard consistent with the demands of due process and necessary for a fair determination of the matter. Upon completion of its hearings the court shall make such findings of fact and conclusions of law as are appropriate. Except in the case of exigent circumstances, the court shall make its determination within sixty days of the filing of the petition by the board.

(c) A determination of the circuit court shall be a final order which may be appealed to the Supreme Court of Appeals in the same manner as decisions in other civil actions.