

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 1. ADMINISTRATIVE OPERATIONS
SUBCHAPTER 7. HEARINGS**

365:1-7-1. Setting hearings; demands for hearing

(a) The Insurance Commissioner may hold hearings on any matters within his/her jurisdiction under the Insurance Code, either upon his/her own motion or upon written demand therefor by any person aggrieved by any act, threatened act, or failure to act of the Insurance Commissioner or by any report, regulation, rule or order of the Insurance Commissioner. The written demand for hearing should specify the grounds to be relied upon as a basis for relief demanded at the hearing.

(b) Upon receipt of a written demand for a hearing as outlined in (a) of this Section, the Insurance Commissioner shall either set down the matter for hearing within thirty days from the receipt of the demand therefor or shall issue a written order denying hearing.

[Source: Amended at 10 Ok Reg 1457, eff 5-1-93]

365:1-7-2. Notice of hearing

(a) Notice of all hearings shall be given, not less than ten days in advance thereof, to all persons directly affected by such hearing.

(b) The notice of hearing shall contain the following information:

(1) The time and place of hearing;

(2) A statement of the matters to be considered;

(3) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(4) A short plain statement of the matters asserted. If such statement of the issues is not sufficient, upon application a more definite and detailed statement will be furnished;

(5) A reference to the particular sections of the Insurance Code and/or Rules involved.

365:1-7-3. Subpoena of witnesses and documentary evidence

The Insurance Commissioner shall have the power to subpoena witnesses and administer oaths or to subpoena documentary evidence in any case before him/her. All subpoenas shall be served in the manner as if issued from District Court. Any person and/or party to hearing before the Insurance Commissioner who may be adversely affected by the order of the Insurance Commissioner shall have the right to have subpoenas issued to any witnesses in his/her behalf.

[Source: Amended at 10 Ok Reg 1457, eff 5-1-93]

365:1-7-4. Conduct of hearings

(a) **Hearings to be open.** All hearings shall be open to the public.

(b) **Right to counsel.** Any person affected by the hearing shall have the right to appear in person and by counsel, provided, however, that such counsel representing the party, must be duly licensed to practice law by the Supreme Court of Oklahoma. The party and his

counsel may be present during the giving of evidence, may have a reasonable opportunity to examine and inspect all documentary evidence, may examine witnesses and may present evidence in the party's own behalf.

(c) **Rules of evidence.** The formal rules of pleading and evidence need not be observed. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, a party shall be given an opportunity to compare the copy with the original. Notice may be taken of judicially cognizable facts and generally recognized technical or scientific facts within the specialized knowledge of the Insurance Commissioner. The Commissioner's experience, technical competence and specialized knowledge shall be utilized in the evaluation of evidence.

365:1-7-5. Hearing record

(a) **Transcript of hearing.** Upon written request reasonably made by a person affected by the hearing, and at such person's expense, a full stenographic record of the proceedings shall be made by a competent court reporter. When such transcription shall be made a part of the record of the Insurance Commissioner, any other persons having a direct interest therein shall be furnished with a copy of such stenographic record at his expense.

(b) **Record contents.** The record in any hearing shall include the following:

- (1) All pleadings, motions and intermediate rulings;
- (2) All evidence received or considered including a statement of matters officially noted;
- (3) Questions or offers of proof, objections and rulings thereon;
- (4) Proposed findings and exceptions;
- (5) The decision, opinion, report or order of the Insurance Commissioner.

365:1-7-6. Findings of fact; final order

All findings of fact shall be based exclusively on the evidence presented and on matters officially noticed. A final order adverse to a party in an individual proceeding shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, upon request, a party submits proposed findings of fact, the order shall include a ruling upon each proposed finding. Parties shall be notified either personally or by mail of any order. Upon request, a copy of the order shall be delivered or mailed forthwith to each party and to his attorney of record.

[Source: Amended at 10 Ok Reg 1457, eff 5-1-93]

365:1-7-7. Rehearings

(a) At the discretion of the Insurance Commissioner, a rehearing may be granted to any party upon written request made within ten days after any order is mailed or delivered to the person entitled to receive same. In the request for hearing, the party shall set forth one or more of the following grounds:

- (1) Newly discovered or newly available evidence relevant to the issues;
- (2) Need for additional evidence adequately to develop the facts essential to proper decision;

- (3) Probable error committed by the Insurance Commissioner in the proceeding or in his decision, such as would be ground for reversal on judicial review of the order;
 - (4) Need for further consideration of the issues and the evidence in the public interest; or
 - (5) A showing that issues not previously considered ought to be examined in order to properly dispose of the matter.
- (b) Nothing in this section shall prevent the Insurance Commissioner from rehearing, reopening or reconsidering any matter in accordance with other statutory provisions applicable to the Insurance Commissioner, or at anytime, on the ground of fraud practiced by the prevailing party or of procurement of the order by perjured testimony or fictitious evidence.
- (c) On rehearing, the hearing shall be confined to those grounds upon which the rehearing was granted.

[Source: Amended at 10 Ok Reg 1457, eff 5-1-93]

365:1-7-8. Appeals from orders of Insurance Commissioner

Appeals shall be taken from orders of the Insurance Commissioner, pursuant to the provisions of 36 O.S. §320. Any order made pursuant to a hearing shall be made within thirty days after the termination of the hearing or any rehearing thereof. Such time may be extended by stipulation. The order shall contain a concise statement of the facts as found by the Insurance Commissioner and a concise statement of his/her conclusions therefrom and the effective date of the order.

[Source: Amended at 10 Ok Reg 1457, eff 5-1-93]

365:1-7-9. Hearing procedure-emergency actions

- (a) If the public health, safety, or welfare imperatively requires emergency action, such action, including the suspension of a license instantaneously, may be ordered pending the final outcome of proceedings instituted by the Insurance Department. In such cases, the Insurance Department shall notify the affected individual or entity of such action by certified mail, return receipt requested, and shall include in such notice a provision that the individual or entity may request a hearing concerning the emergency action. A request for a hearing concerning the emergency action shall be made in writing to the legal division of the Insurance Department. Upon such written request for hearing, the Insurance Department shall conduct the hearing within ten business days after receipt of the request. The hearing shall be conducted by an independent hearing examiner. If an independent hearing examiner is not available within ten business days, the hearing shall be set within a reasonable time.
- (b) The individual or entity affected may make arrangements for a court reporter to be present at and record the hearing concerning the emergency action. All costs associated with the court reporter shall be borne by said individual or entity.
- (c) An individual or entity who requests a hearing pursuant to this regulation may appeal the ruling of the hearing examiner by filing a petition in Oklahoma County District Court, within thirty (30) days after the individual or entity is notified of the order

of the hearing examiner. Copies of the petition shall be served upon the Insurance Department and all other parties of record, and proof of such service shall be filed in the district court within ten (10) days after the filing of the petition.

[**Source:** Amended at 13 Ok Reg 3013, eff 7-15-96; Amended at 27 Ok Reg 1530, eff 7-14-10]