

**40-2,137. Assessment of costs of certain administrative hearings, guidelines, procedure.** (a) The costs incurred by the department of insurance in conducting any administrative hearing authorized by article 33 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, shall be assessed against insurers or rating organizations that are parties to the hearing in such proportion as the commissioner of insurance may determine upon consideration of all relevant circumstances including: (1) The nature of the hearing; (2) whether the hearing was instigated by, or for the benefit of a particular party or parties; (3) whether there is a successful party on the merits of the proceeding; (4) the relative levels of participation by the parties; and (5) with the exception of hearings held under article 33 of chapter 40 of the Kansas Statutes Annotated, only when the disapproval of rates in question is upheld, a rating organization's license is suspended or revoked or a penalty is imposed as a result of the hearing.

(b) For purposes of this section costs incurred shall mean the presiding officer fees, cost of making a record and publishing notices, and travel expenses of department of insurance officers and employees, but costs incurred shall not include presiding officer fees or cost of making a record unless the department has retained the services of the office of administrative hearings or outside experts to perform such functions.

(c) Any costs assessed hereunder shall be made by the commissioner as part of the final order or decision arising out of the proceeding. Such order or decision shall include findings and conclusions in support of the assessment of costs. This section shall not be construed as permitting the payment of travel expenses unless calculated in accordance with the applicable laws and rules and regulations of the state of Kansas. The commissioner as part of such order or decision may require all assessments for presiding officer fees and cost of making a record, if any, to be paid directly to the office of administrative hearings by the party or parties assessed for such costs.

**History:** L. 1990, ch. 173, § 3; L. 1990, ch. 159, § 1; L. 2004, ch. 145, § 13; July 1, 2005.