

VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

CHAPTER 473

An Act to amend and reenact § 51.1-1135.1 of the Code of Virginia, relating to the Virginia Sickness and Disability Program; appeal of disability benefit determinations.

[H 2489]

Approved March 21, 2005

Be it enacted by the General Assembly of Virginia:

1. That § 51.1-1135.1 of the Code of Virginia is amended and reenacted as follows:

§ 51.1-1135.1. Appeals.

The Board may elect to develop an alternative *to the process set forth in the Administrative Process Act* (§ 2.2-4000 *et seq.*) to allow appeals of case decisions related to the payment of disability benefits under this chapter. This alternative process shall be modeled after the claims provisions as provided for in the federal Employee Retirement Income Security Act of 1974, as amended, *and shall (i) provide for adequate notice in writing to any participant whose claim for benefits has been denied setting forth the specific reasons for such denial, and (ii) afford a reasonable opportunity to any participant whose claim for benefits has been denied for a review of the decision denying the claim.* Articles 3 (§ 2.2-4018 *et seq.*) and 4 (§ 2.2-4024 *et seq.*) of the Administrative Process Act (~~§ 2.2-4000 *et seq.*~~) shall not apply to any portion of this alternative appeals process. However, any person aggrieved by, and claiming the unlawfulness of, a final case decision issued pursuant to this alternative appeals process, whether issued by the Board or by the Board's delegate, shall have a right to seek judicial review thereof. Such judicial review shall be in accordance with Article 5 (§ 2.2-4025 *et seq.*) of the Administrative Process Act (~~§ 2.2-4025 *et seq.*~~).