

2005 SESSION

INTRODUCED

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HOUSE BILL NO. 247

Offered January 14, 2004

Prefiled January 8, 2004

A BILL 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.

Patron—Petersen

Referred to Committee on Appropriations

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* to allow appeals of case decisions related to the payment of disability benefits under this chapter *provided that such process provides the claimant with the right to (i) appear in person or by counsel or other qualified representative for the presentation of factual data, argument, or proof in connection with the claim, (ii) have notice of any contrary fact basis in possession of the Board that can be relied upon in making an adverse decision, (iii) receive a prompt decision, and (iv) be informed briefly and generally in writing of the factual or procedural basis for an adverse decision.* 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. 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 of the Administrative Process Act (§ 2.2-4025 et seq.).

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