

113TH CONGRESS
2D SESSION

H. R. 4616

To direct the Secretary of Veterans Affairs to carry out a pilot program to provide veterans the option of using an alternative appeals process to more quickly determine claims for disability compensation.

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 2014

Mr. O’ROURKE (for himself and Mr. COOK) introduced the following bill;
which was referred to the Committee on Veterans’ Affairs

A BILL

To direct the Secretary of Veterans Affairs to carry out a pilot program to provide veterans the option of using an alternative appeals process to more quickly determine claims for disability compensation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Express Appeals Act”.

5 **SEC. 2. PILOT PROGRAM ON EXPRESS APPEALS.**

6 (a) IN GENERAL.—The Secretary of Veterans Affairs
7 shall carry out a pilot program to provide the option of

1 an alternative appeals process that shall more quickly de-
2 termine such appeals in accordance with this section.

3 (b) ELECTION.—

4 (1) FILING.—In accordance with paragraph
5 (2), a claimant may elect to file an express appeal
6 under the pilot program under subsection (a) by fil-
7 ing with the Secretary the following:

8 (A) The notice of disagreement under
9 chapter 71 of title 38, United States Code.

10 (B) All evidence that the claimant believes
11 is needed for the appeal as of the date of the
12 filing.

13 (C) A statement of the argument in sup-
14 port of the claim, if any.

15 (D) The written election of the claimant to
16 have the appeal determined under the pilot pro-
17 gram.

18 (2) TIMING.—A claimant shall make an election
19 under paragraph (1)—

20 (A) if the claimant has filed a traditional
21 appeal with respect to the claim for disability
22 compensation before the date on which the pilot
23 program under subsection (a) commences, at
24 any time during the traditional appeal process;
25 or

1 (B) if the claimant has not so filed a tradi-
2 tional appeal with respect to the claim for dis-
3 ability compensation before such date, by not
4 later than 90 days after the date on which the
5 Secretary provides to the claimant the notice of
6 the determination of the claim.

7 (3) CHANGE OF PROCESSING.—If a claimant
8 described in paragraph (2)(A) seeks to elect to make
9 an election under paragraph (1) to change a tradi-
10 tional appeal to an express appeal, the Secretary
11 shall—

12 (A) inform the claimant of whether, in
13 light of such traditional appeal being processed,
14 the claimant will achieve any time savings
15 through such an express appeal; and

16 (B) if the claimant elects to file such ex-
17 press appeal, process the express appeal in ac-
18 cordance with this section to the extent prac-
19 ticable.

20 (4) REVERSION.—At any time, a claimant who
21 makes an election under paragraph (1) may elect to
22 revert to the traditional appeals process without any
23 penalty to the claimant other than the loss of the
24 docket number associated with the express appeal.

1 (5) USE OF EXPRESS APPEAL.—A claimant
2 may only make an election under paragraph (1) with
3 respect to a claim for disability compensation filed
4 by the claimant that is not, with respect to a claim
5 previously decided by express appeal, a petition to
6 reopen the claim or a separate claim for an in-
7 creased rating for the claim.

8 (6) OUTREACH.—In providing claimants with
9 notices of the determination of a claim during the
10 period in which the pilot program under subsection
11 (a) is carried out, the Secretary shall provide to the
12 claimant information regarding—

13 (A) the pilot program;

14 (B) how to make an election under para-
15 graph (1);

16 (C) what documents the claimant must
17 provide during the course of the appeals proc-
18 ess; and

19 (D) the ability of the claimant to seek ad-
20 vice and education regarding such process from
21 veterans service organizations and attorneys
22 recognized under chapter 59 of title 38, United
23 States Code.

24 (c) TREATMENT BY DEPARTMENT AND BOARD.—

1 (1) PROCESS.—Upon the election of a claimant
2 to file an express appeal pursuant to subsection
3 (b)(1), the Secretary shall—

4 (A) not provide the claimant with a state-
5 ment of the case nor require the claimant to file
6 a substantive appeal; and

7 (B) transfer jurisdiction over the express
8 appeal directly to the Board of Veterans' Ap-
9 peals.

10 (2) DOCKET.—The Board of Veterans' Appeals
11 shall—

12 (A) maintain express appeals on a separate
13 docket than traditional appeals;

14 (B) hear express appeals in the order that
15 the express appeals are received on the express
16 appeal docket; and

17 (C) decide not more than one express ap-
18 peal for each four traditional appeals decided.

19 (3) NEW EVIDENCE.—

20 (A) If a claimant submits to the Board of
21 Veterans' Appeals any new evidence relating to
22 an express appeal after filing such appeal, the
23 claimant may—

24 (i) revert to the traditional appeals
25 process pursuant to subsection (b)(4) and

1 use such new evidence during the course of
2 such process; or

3 (ii) withdraw such new evidence and
4 continue the express appeal.

5 (B) If a claimant withdraws new evidence
6 pursuant to subparagraph (A)(ii), the Secretary
7 shall inform the claimant, after the Board de-
8 cides the express appeal, of the ability of the
9 claimant to use such new evidence as the basis
10 for a petition to reopen the claim or as a sepa-
11 rate claim for an increased rating.

12 (4) PROHIBITION ON REMAND TO REGIONAL
13 OFFICE.—If the Board of Veterans' Appeals deter-
14 mines that an express appeal requires additional in-
15 formation, including any medical examination, the
16 Board shall—

17 (A) direct the Veterans Benefits Adminis-
18 tration to take such actions as may be nec-
19 essary to develop such information;

20 (B) retain jurisdiction of the express ap-
21 peal without requiring a determination by the
22 Veterans Benefits Administration based on such
23 information;

1 (C) direct the Veterans Benefits Adminis-
2 tration to ensure the claimant receives a copy
3 of such information; and

4 (D) provide the claimant a period of 45
5 days after the receipt of such information to
6 provide the Board any additional evidence.

7 (5) HEARINGS.—Notwithstanding section 7107
8 of title 38, United States Code, the Board of Vet-
9 erans' Appeals may not provide hearings with re-
10 spect to express appeals. A claimant may request to
11 hold a hearing pursuant to such section 7107 if the
12 claimant reverts to the traditional appeals process
13 pursuant to subsection (b)(4).

14 (d) DURATION; APPLICATION.—The Secretary shall
15 carry out the pilot program under subsection (a) for a five-
16 year period beginning one year after the date of the enact-
17 ment of this Act. This section shall apply only to express
18 appeals that are filed during such period.

19 (e) REPORTS.—During each year in which the pilot
20 program under subsection (a) is carried out, the Secretary
21 shall submit to the Committees on Veterans' Affairs of
22 the House of Representatives and the Senate a report on
23 the pilot program. The first such report shall be submitted
24 by not later than 180 days after the date on which the
25 pilot program commences.

1 (f) DEFINITIONS.—In this section:

2 (1) The term “claimant” has the meaning given
3 that term in section 5100 of title 38, United States
4 Code.

5 (2) The term “compensation” has the meaning
6 given that term in section 101 of title 38, United
7 States Code.

8 (3) The term “express appeal” means an appeal
9 of a claim for disability compensation that is—

10 (A) filed by a claimant in accordance with
11 subsection (b)(1); and

12 (B) considered in accordance with this sec-
13 tion.

14 (4) The term “traditional appeal” means an ap-
15 peal of a claim for disability compensation that is
16 not an express appeal.

○