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116TH CONGRESS
1ST SESSION

H. R. 3566

To help individuals receiving disability insurance benefits under title II of the Social Security Act obtain rehabilitative services and return to the workforce, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2019

Mr. HILL of Arkansas (for himself, Mr. ROUZER, Mr. FLORES, Mr. ALLEN, and Mr. DAVIDSON of Ohio) introduced the following bill; which was referred to the Committee on Ways and Means

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A BILL

To help individuals receiving disability insurance benefits under title II of the Social Security Act obtain rehabilitative services and return to the workforce, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Social Security Disability Insurance Return to Work Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Revising disability classifications.
Sec. 3. Requiring periodic continuing disability reviews for certain beneficiaries.
Sec. 4. Regulations related to disability classifications and CDRs.
Sec. 5. Time-limiting disability benefits for MIE and MIL individuals.
Sec. 6. Encouraging work by MIE and MIL individuals.
Sec. 7. Increased funding for continuing disability reviews.

SEC. 2. REVISING DISABILITY CLASSIFICATIONS.

Section 221 of the Social Security Act (42 U.S.C. 421) is amended by adding at the end the following new subsection:

''(n)(1) Not later than 1 year after the date of the enactment of this subsection, the Commissioner of Social Security shall establish a system for classifying any individual who is determined to be entitled to disability insurance benefits under this title or to monthly benefits under section 202 by reason of being under a disability in the following manner:

''(A) An individual shall be classified as 'medical improvement expected' if the impairment or combination of impairments causing the individual to be disabled is expected to medically improve to the point where the individual will no longer be disabled in 12 to 24 months.

''(B) An individual shall be classified as 'medical improvement likely' if the impairment or combination of impairments causing the individual to be disabled is expected to medically improve to the

point where the individual will no longer be disabled in 25 months to 60 months.

''(C) An individual shall be classified as 'medical improvement possible' if the impairment or combination of impairments causing the individual to be disabled is not expected to medically improve to the point where the individual will no longer be disabled in 60 months, but future improvement is possible.

''(D) An individual shall be classified as 'medical improvement not expected' if the individual has an impairment or combination of impairments that is chronic or progressive with permanent, irreversible structural or functional loss, and for which there is no known effective therapy, treatment, or surgical intervention that could result in medical improvement to the point where the individual is no longer disabled.

''(2) In classifying an individual under the system established under this subsection, the Commissioner of Social Security shall not classify an individual as 'medical improvement not expected' solely by reason of such individual's age where a lesser classification is appropriate.

''(3) Notwithstanding section 205(b)(1) or subsection (c)(1) or (d) of this section, there shall be no review of,

or right to appeal, a classification made under the system established under this subsection.''.

SEC. 3. REQUIRING PERIODIC CONTINUING DISABILITY REVIEWS FOR CERTAIN BENEFICIARIES.

(a) IN GENERAL.—Section 221(i) of the Social Security Act (42 U.S.C. 421(i)) is amended—

(1) by amending paragraph (1) to read as follows:

''(1)(A) In the case of any individual who has not attained age 63, is determined to be under a disability, and is classified as 'medical improvement possible' or 'medical improvement not expected', the applicable State agency or the Commissioner of Social Security (as may be appropriate) shall, for purposes of determining such individual's continuing disability—

''(i) if the individual is classified as 'medical improvement possible', conduct a review to determine whether the individual remains under a disability during the 5th year following the first month after the individual's waiting period (as defined in section 223(c)(2)); and

''(ii) if the individual is classified as 'medical improvement not expected', conduct a review to determine whether the individual remains under a disability during the 10th year following the first

month after the individual's waiting period (as so defined).

''(B) In addition to the continuing disability reviews required under subparagraph (A) and notwithstanding how an individual is classified under the system established by the Commissioner of Social Security under subsection (n), if the Commissioner has reason to believe that an individual that has been determined to be under a disability is not under a disability, the Commissioner may review such individual's case at such time and in such manner as the Commissioner determines appropriate except that the Commissioner shall not initiate a review on the basis of income earned by an individual who is a participant in the process established under section 223(l).

''(C) Reviews of cases which are required or permitted under this paragraph shall be in addition to, and shall not be considered as a substitute for, any other reviews which are required or provided for under or in the administration of this title.'';

(2) by striking paragraph (2); and

(3) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively.

(b) STANDARD OF REVIEW FOR CONTINUING DISABILITY REVIEWS.—

(1) IN GENERAL.—Section 223(f) of the Social Security Act (42 U.S.C. 423(f)) is amended—

(A) in paragraph (4), by striking the period at the end and inserting ''; or'';

(B) by inserting after paragraph (4) the following new paragraph:

''(5) in the case of a continuing disability review under section 221(i), evidence that would be sufficient to support a finding in an initial determination that the individual is not under a disability and is able to engage in substantial gainful activity.''; and

(C) in the flush matter at the end, by inserting '', except that, in the case of a continuing disability review under section 221(i), the Commissioner shall not consider the fact that an individual is engaged in substantial gainful work as part of the process established under subsection (l) as evidence that the individual is able to engage in substantial gainful activity'' after ''secured by the Commissioner of Social Security''.

(2) CONFORMING AMENDMENT TO DEFINITION OF DISABILITY.—Section 223(d)(2) of the Social Security Act (42 U.S.C. 423(d)(2)) is amended—

(A) in subparagraph (A), by striking ''An individual'' and inserting ''Subject to subparagraph (D), an individual''; and

(B) by adding at the end the following new subparagraph:

''(D) In the case of a continuing disability review under section 221(i), an individual may be found to be under a disability even though the individual is engaged in substantial gainful work as part of the process established under subsection (l).''.

SEC. 4. REGULATIONS RELATED TO DISABILITY CLASSIFICATIONS AND CDRS.

The Commissioner of Social Security shall promulgate or revise, as appropriate, regulations relating to the determination, classification, and review of the disability status of individuals who apply for or receive disability insurance benefits under title II of the Social Security Act and related provisions of agency guidance to carry out section 2 and the amendments made by section 3.

SEC. 5. TIME-LIMITING DISABILITY BENEFITS FOR MIE AND MIL INDIVIDUALS.

Section 223 of the Social Security Act (42 U.S.C. 423) is amended—

(1) in subsection (a)(1), in the flush language after and below subparagraph (E), by striking ''sub-

section (e)'' and inserting ''subsections (e) and (k)''; and

(2) by adding at the end the following new subsection:

''Time-Limited Disability Benefits

''(k)(1) In the case of an individual who files an application for disability insurance benefits under this section or for monthly benefits under section 202 by reason of being under a disability for any month that begins on or after the date that is 1 year after the date of the enactment of the Social Security Disability Insurance Return to Work Act, is determined to be under a disability, and is classified by the Commissioner of Social Security as 'medical improvement expected' or 'medical improvement likely', the termination month applicable to the individual shall be—

''(A) if the individual has been classified as 'medical improvement expected', the 23rd month following the first month after the individual's waiting period (as defined in subsection (c)(2)); or

''(B) if the individual has been classified as 'medical improvement likely', the 59th month following the first month after the individual's waiting period (as so defined).

''(2)(A)(i) For purposes of this paragraph, the term 'timely reapplication' means an application for disability insurance benefits under this section or for monthly benefits under section 202 by reason of being under a disability that is submitted—

''(I) by an individual who is a recipient of such benefits; and

''(II) during the period that is 14 months before the end of the termination month applicable (or most recently applicable) to the individual under paragraph (1) as of the date of such application and ending with the date that is 12 months before the end of such termination month.

''(ii) Notwithstanding clause (i), the Commissioner of Social Security may deem an application for disability insurance benefits under this section or for monthly benefits under section 202 by reason of being under a disability submitted by an individual who is a recipient of such benefits that is submitted after the period described in clause (i)(II) to be a timely reapplication if—

''(I) the individual can show good cause for why the application was not submitted during such period; and

''(II) the application is submitted not later than 6 months before the end of the termination month

applicable (or most recently applicable) to the individual under paragraph (1) as of the date of such application.

''(B)(i) An individual who submits a timely reapplication and who is determined to be under a disability shall be deemed to have satisfied the waiting period applicable under subsection (c)(2).

''(ii)(I) If the Commissioner of Social Security fails to make an initial determination with respect to the timely reapplication of an individual who is a recipient of disability insurance benefits under this section or monthly benefits under section 202 by reason of being under a disability before the end of the termination month applicable to the individual as of the date of such reapplication, such individual shall continue to be entitled to such benefits until an initial determination with respect to such timely reapplication is made.

''(II) If the Commissioner of Social Security makes an initial adverse determination with respect to the timely reapplication of an individual who is a recipient of disability insurance benefits under this section or monthly benefits under section 202 by reason of being under a disability and such individual files a timely request for a hearing under section 221(d), such individual may elect to have the payment of such benefits (as well as any other

benefits payable under this title or title XVIII on the basis of such individual's entitlement to such benefits) continue in the same manner and subject to the same conditions as an election made under subsection (g).

''(C) For purposes of reviewing a timely reapplication submitted by an individual who is a recipient of disability insurance benefits under this section or monthly benefits under section 202 by reason of being under a disability—

''(i) the fact that the individual was previously found to be under a disability shall have no evidentiary weight;

''(ii) the fact that the individual participated in the process established under subsection (l) may be taken into account for purposes of determining whether such individual is under a disability; and

''(iii) subsection (f) shall not apply.''.

SEC. 6. ENCOURAGING WORK BY MIE AND MIL INDIVIDUALS.

(a) IN GENERAL.—Section 223 of the Social Security Act (42 U.S.C. 423), as amended by section 5, is further amended—

(1) in subsection (a)(2), by striking ''section 202(q) and section 215(b)(2)(A)(ii)'' and inserting ''subsection (l) and sections 202(q) and 215(b)(2)(A)(ii)''; and

(2) by adding at the end the following new subsection:

''Treatment of Work Performed by Certain Disabled Individuals

''(l)(1) The Commissioner of Social Security shall establish a process whereby an eligible individual who is entitled to a disability insurance benefit under this section may elect to return to employment and receive an adjusted disability insurance benefit amount (as determined pursuant to paragraph (3)).

''(2)(A) For purposes of this subsection, the term 'eligible individual' means an individual who has been classified as 'medical improvement expected' or 'medical improvement likely'.

''(B) Participation by an eligible individual in the process established under this subsection shall be suspended if such individual has no reported wages or self-employment income for the 4 preceding calendar quarters (as defined in section 213(a)(1)).

''(3)(A) For purposes of subsection (a)(2), the amount of the disability insurance benefit provided to an eligible individual who has elected to return to employment for any month shall be equal to—

''(i) in the case of an individual who has average monthly earnings (as determined under subpara-

graph (B)) equal to or less than the level of monthly earnings established by the Commissioner to represent substantial gainful activity, the amount otherwise applicable for such individual under subsection (a)(2); or

''(ii) in the case of an individual who has average monthly earnings (as determined under subparagraph (B)) that are in excess of the level of monthly earnings established by the Commissioner to represent substantial gainful activity, the amount of the disability insurance benefit that would otherwise apply for such individual under subsection (a)(2) reduced (but not below zero) by an amount equal to 50 percent of the excess of such individual's average monthly earnings over the level of monthly earnings established by the Commissioner to represent substantial gainful activity.

''(B)(i) The average monthly earnings for an eligible individual shall be equal to the quotient of—

''(I) the total amount of wages and self-employment income for such individual in any eligible months during the 2 calendar quarters (as defined in section 213(a)(1)) that precede the most recently completed calendar quarter; and

''(II) the total number of eligible months during such 2-calendar-quarter period.

''(ii) For purposes of clause (i), the term 'eligible month' means any month subsequent to the month in which an eligible individual became entitled to a disability insurance benefit.

''(4) For purposes of paragraph (3)(B), wages and self-employment income of an individual shall be determined based on relevant information for such individual as provided by the State agency responsible for the administration of State unemployment compensation law.

''(5) For purposes of an eligible individual who has elected to return to employment under this subsection, any services performed or earnings derived from services during the period of such participation shall not be considered for purposes of demonstrating an individual's ability to engage in substantial gainful activity under subsection (d)(4) and shall not be considered substantial gainful activity for purposes of subsection (e).

''(6) For purposes of this title, the disability insurance benefit received by an individual under this subsection shall not be applied for purposes of determining any monthly benefits payable to any other individuals entitled to benefits for any month based on the wages and self-employment income of such individual.''.

(b) CONFORMING AMENDMENT.—Section 221(m)(2)(B) of the Social Security Act (42 U.S.C. 421(m)(2)(B)) is amended by inserting ''(unless such individual is participating in the process established under section 223(l))'' before the period.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable for months beginning on or after April 1, 2020.

SEC. 7. INCREASED FUNDING FOR CONTINUING DISABILITY REVIEWS.

Notwithstanding any other provision of law, for any calendar year after 2019—

(1) the Commissioner of Social Security shall determine the amount of any reduction in expenditures from the Federal Disability Insurance Trust Fund (as defined in section 201(b) of the Social Security Act (42 U.S.C. 401(b))) during the preceding calendar year by reason of the provisions of this Act and the amendments made by this Act; and

(2) 10 percent of the amount determined under paragraph (1) shall be authorized to be made available from the Federal Disability Insurance Trust Fund for continuing disability reviews (as defined in

section 201(g)(1)(A) of the Social Security Act (42 U.S.C. 401(g)(1)(A))).

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