

114TH CONGRESS  
2D SESSION

# H. R. 5409

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.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 2016

Mr. HILL 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.

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Social Security Disability Insurance Return to Work  
6 Act”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for  
8 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.

1 **SEC. 2. REVISING DISABILITY CLASSIFICATIONS.**

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

5 “(n)(1) Not later than 1 year after the date of the  
6 enactment of this subsection, the Commissioner of Social  
7 Security shall establish a system for classifying any indi-  
8 vidual who is determined to be entitled to disability insur-  
9 ance benefits under this title or to monthly benefits under  
10 section 202 by reason of being under a disability in the  
11 following manner:

12 “(A) An individual shall be classified as ‘med-  
13 ical improvement expected’ if the impairment or  
14 combination of impairments causing the individual  
15 to be disabled is expected to medically improve to  
16 the point where the individual will no longer be dis-  
17 abled in 12 to 24 months.

18 “(B) An individual shall be classified as ‘med-  
19 ical improvement likely’ if the impairment or com-  
20 bination of impairments causing the individual to be  
21 disabled is expected to medically improve to the

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

3 “(C) An individual shall be classified as ‘med-  
4 ical improvement possible’ if the impairment or com-  
5 bination of impairments causing the individual to be  
6 disabled is not expected to medically improve to the  
7 point where the individual will no longer be disabled  
8 in 60 months, but future improvement is possible.

9 “(D) An individual shall be classified as ‘med-  
10 ical improvement not expected’ if the individual has  
11 an impairment or combination of impairments that  
12 is chronic or progressive with permanent, irreversible  
13 structural or functional loss, and for which there is  
14 no known effective therapy, treatment, or surgical  
15 intervention that could result in medical improve-  
16 ment to the point where the individual is no longer  
17 disabled.

18 “(2) In classifying an individual under the system es-  
19 tablished under this subsection, the Commissioner of So-  
20 cial Security shall not classify an individual as ‘medical  
21 improvement not expected’ solely by reason of such indi-  
22 vidual’s age where a lesser classification is appropriate.

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

1 or right to appeal, a classification made under the system  
2 established under this subsection.”.

3 **SEC. 3. REQUIRING PERIODIC CONTINUING DISABILITY RE-**  
4 **VIEWS FOR CERTAIN BENEFICIARIES.**

5 (a) IN GENERAL.—Section 221(i) of the Social Secu-  
6 rity Act (42 U.S.C. 421(i)) is amended—

7 (1) by amending paragraph (1) to read as fol-  
8 lows:

9 “(1)(A) In the case of any individual who has not  
10 attained age 63, is determined to be under a disability,  
11 and is classified as ‘medical improvement possible’ or  
12 ‘medical improvement not expected’, the applicable State  
13 agency or the Commissioner of Social Security (as may  
14 be appropriate) shall, for purposes of determining such in-  
15 dividual’s continuing disability—

16 “(i) if the individual is classified as ‘medical im-  
17 provement possible’, conduct a review to determine  
18 whether the individual remains under a disability  
19 during the 5th year following the first month after  
20 the individual’s waiting period (as defined in section  
21 223(c)(2)); and

22 “(ii) if the individual is classified as ‘medical  
23 improvement not expected’, conduct a review to de-  
24 termine whether the individual remains under a dis-  
25 ability during the 10th year following the first

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

3 “(B) In addition to the continuing disability reviews  
4 required under subparagraph (A) and notwithstanding  
5 how an individual is classified under the system estab-  
6 lished by the Commissioner of Social Security under sub-  
7 section (n), if the Commissioner has reason to believe that  
8 an individual that has been determined to be under a dis-  
9 ability is not under a disability, the Commissioner may  
10 review such individual's case at such time and in such  
11 manner as the Commissioner determines appropriate ex-  
12 cept that the Commissioner shall not initiate a review on  
13 the basis of income earned by an individual who is a par-  
14 ticipant in the process established under section 223(l).

15 “(C) Reviews of cases which are required or per-  
16 mitted under this paragraph shall be in addition to, and  
17 shall not be considered as a substitute for, any other re-  
18 views which are required or provided for under or in the  
19 administration of this title.”;

20 (2) by striking paragraph (2); and

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

23 (b) STANDARD OF REVIEW FOR CONTINUING DIS-  
24 ABILITY REVIEWS.—

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

3           (A) in paragraph (4), by striking the pe-  
4 riod at the end and inserting “; or”;

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

7           “(5) in the case of a continuing disability re-  
8 view under section 221(i), evidence that would be  
9 sufficient to support a finding in an initial deter-  
10 mination that the individual is not under a disability  
11 and is able to engage in substantial gainful activ-  
12 ity.”; and

13           (C) in the flush matter at the end, by in-  
14 serting “, except that, in the case of a con-  
15 tinuing disability review under section 221(i),  
16 the Commissioner shall not consider the fact  
17 that an individual is engaged in substantial  
18 gainful work as part of the process established  
19 under subsection (1) as evidence that the indi-  
20 vidual is able to engage in substantial gainful  
21 activity” after “secured by the Commissioner of  
22 Social Security”.

23           (2) CONFORMING AMENDMENT TO DEFINITION  
24 OF DISABILITY.—Section 223(d)(2) of the Social Se-  
25 curity Act (42 U.S.C. 423(d)(2)) is amended—

1 (A) in subparagraph (A), by striking “An  
2 individual” and inserting “Subject to subpara-  
3 graph (D), an individual”; and

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

6 “(D) In the case of a continuing disability re-  
7 view under section 221(i), an individual may be  
8 found to be under a disability even though the indi-  
9 vidual is engaged in substantial gainful work as part  
10 of the process established under subsection (l).”.

11 **SEC. 4. REGULATIONS RELATED TO DISABILITY CLASSI-**  
12 **FICATIONS AND CDRS.**

13 The Commissioner of Social Security shall promul-  
14 gate or revise, as appropriate, regulations relating to the  
15 determination, classification, and review of the disability  
16 status of individuals who apply for or receive disability in-  
17 surance benefits under title II of the Social Security Act  
18 and related provisions of agency guidance to carry out sec-  
19 tion 2 and the amendments made by section 3.

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

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

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

1 section (e)” and inserting “subsections (e) and (k)”;  
2 and

3 (2) by adding at the end the following new sub-  
4 section:

5 “Time-Limited Disability Benefits

6 “(k)(1) In the case of an individual who files an appli-  
7 cation for disability insurance benefits under this section  
8 or for monthly benefits under section 202 by reason of  
9 being under a disability for any month that begins on or  
10 after the date that is 1 year after the date of the enact-  
11 ment of the Social Security Disability Insurance Return  
12 to Work Act, is determined to be under a disability, and  
13 is classified by the Commissioner of Social Security as  
14 ‘medical improvement expected’ or ‘medical improvement  
15 likely’, the termination month applicable to the individual  
16 shall be—

17 “(A) if the individual has been classified as  
18 ‘medical improvement expected’, the 23rd month fol-  
19 lowing the first month after the individual’s waiting  
20 period (as defined in subsection (c)(2)); or

21 “(B) if the individual has been classified as  
22 ‘medical improvement likely’, the 59th month fol-  
23 lowing the first month after the individual’s waiting  
24 period (as so defined).



1           “(2)(A)(i) For purposes of this paragraph, the term  
2 ‘timely reapplication’ means an application for disability  
3 insurance benefits under this section or for monthly bene-  
4 fits under section 202 by reason of being under a disability  
5 that is submitted—

6           “(I) by an individual who is a recipient of such  
7 benefits; and

8           “(II) during the period that is 14 months be-  
9 fore the end of the termination month applicable (or  
10 most recently applicable) to the individual under  
11 paragraph (1) as of the date of such application and  
12 ending with the date that is 12 months before the  
13 end of such termination month.

14           “(ii) Notwithstanding clause (i), the Commissioner of  
15 Social Security may deem an application for disability in-  
16 surance benefits under this section or for monthly benefits  
17 under section 202 by reason of being under a disability  
18 submitted by an individual who is a recipient of such bene-  
19 fits that is submitted after the period described in clause  
20 (i)(II) to be a timely reapplication if—

21           “(I) the individual can show good cause for why  
22 the application was not submitted during such pe-  
23 riod; and

24           “(II) the application is submitted not later than  
25 6 months before the end of the termination month

1 applicable (or most recently applicable) to the indi-  
2 vidual under paragraph (1) as of the date of such  
3 application.

4 “(B)(i) An individual who submits a timely reapplica-  
5 tion and who is determined to be under a disability shall  
6 be deemed to have satisfied the waiting period applicable  
7 under subsection (c)(2).

8 “(ii)(I) If the Commissioner of Social Security fails  
9 to make an initial determination with respect to the timely  
10 reapplication of an individual who is a recipient of dis-  
11 ability insurance benefits under this section or monthly  
12 benefits under section 202 by reason of being under a dis-  
13 ability before the end of the termination month applicable  
14 to the individual as of the date of such reapplication, such  
15 individual shall continue to be entitled to such benefits  
16 until an initial determination with respect to such timely  
17 reapplication is made.

18 “(II) If the Commissioner of Social Security makes  
19 an initial adverse determination with respect to the timely  
20 reapplication of an individual who is a recipient of dis-  
21 ability insurance benefits under this section or monthly  
22 benefits under section 202 by reason of being under a dis-  
23 ability and such individual files a timely request for a  
24 hearing under section 221(d), such individual may elect  
25 to have the payment of such benefits (as well as any other

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

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

9 “(i) the fact that the individual was previously  
 10 found to be under a disability shall have no evi-  
 11 dentiary weight;

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

16 “(iii) subsection (f) shall not apply.”.

17 **SEC. 6. ENCOURAGING WORK BY MIE AND MIL INDIVID-**  
 18 **UALS.**

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

22 (1) in subsection (a)(2), by striking “section  
 23 202(q) and section 215(b)(2)(A)(ii)” and inserting  
 24 “subsection (l) and sections 202(q) and  
 25 215(b)(2)(A)(ii)”; and



1 graph (B)) equal to or less than the level of monthly  
2 earnings established by the Commissioner to rep-  
3 resent substantial gainful activity, the amount other-  
4 wise applicable for such individual under subsection  
5 (a)(2); or

6 “(ii) in the case of individual who has average  
7 monthly earnings (as determined under subpara-  
8 graph (B)) that are in excess of the level of monthly  
9 earnings established by the Commissioner to rep-  
10 resent substantial gainful activity, the amount of the  
11 disability insurance benefit that would otherwise  
12 apply for such individual under subsection (a)(2) re-  
13 duced (but not below zero) by an amount equal to  
14 50 percent of the excess of such individual’s average  
15 monthly earnings over the level of monthly earnings  
16 established by the Commissioner to represent sub-  
17 stantial gainful activity.

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

20 “(I) the total amount of wages and self-employ-  
21 ment income for such individual in any eligible  
22 months during the 2 calendar quarters (as defined  
23 in section 213(a)(1)) that precede the most recently  
24 completed calendar quarter, and

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

3           “(ii) For purposes of clause (i), the term ‘eligible  
4 month’ means any month subsequent to the month in  
5 which an eligible individual became entitled to a disability  
6 insurance benefit.

7           “(4) For purposes of paragraph (3)(B), wages and  
8 self-employment income of an individual shall be deter-  
9 mined based on relevant information for such individual  
10 as provided by the State agency responsible for the admin-  
11 istration of State unemployment compensation law.

12          “(5) For purposes of an eligible individual who has  
13 elected to return to employment under this subsection, any  
14 services performed or earnings derived from services dur-  
15 ing the period of such participation shall not be considered  
16 for purposes of demonstrating an individual’s ability to en-  
17 gage in substantial gainful activity under subsection (d)(4)  
18 and shall not be considered substantial gainful activity for  
19 purposes of subsection (e).

20          “(6) For purposes of this title, the disability insur-  
21 ance benefit received by an individual under this sub-  
22 section shall not be applied for purposes of determining  
23 any monthly benefits payable to any other individuals enti-  
24 tled to benefits for any month based on the wages and  
25 self-employment income of such individual.”.

1 (b) CONFORMING AMENDMENT.—Section  
2 221(m)(2)(B) of the Social Security Act (42 U.S.C.  
3 421(m)(2)(B)) is amended by inserting “(unless such indi-  
4 vidual is participating in the process established under  
5 section 223(l))” before the period.

6 (c) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to benefits payable for months be-  
8 ginning after October 1, 2017.

9 **SEC. 7. INCREASED FUNDING FOR CONTINUING DISABILITY**  
10 **REVIEWS.**

11 Notwithstanding any other provision of law, for any  
12 calendar year after 2017—

13 (1) the Commissioner of Social Security shall  
14 determine the amount of any reduction in expendi-  
15 tures from the Federal Disability Insurance Trust  
16 Fund (as defined in section 201(b) of the Social Se-  
17 curity Act (42 U.S.C. 401(b))) during the preceding  
18 calendar year by reason of the provisions of this Act  
19 and the amendments made by this Act; and

20 (2) 10 percent of the amount determined under  
21 paragraph (1) shall be authorized to be made avail-  
22 able from the Federal Disability Insurance Trust  
23 Fund for continuing disability reviews (as defined in

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

○