

117TH CONGRESS
1ST SESSION

S. 2575

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 SENATE OF THE UNITED STATES

JULY 30, 2021

Mr. COTTON (for himself and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Finance

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. Information relating to the Ticket to Work and Self-Sufficiency Program.
- Sec. 3. Revising disability classifications.
- Sec. 4. Requiring periodic continuing disability reviews for certain beneficiaries.
- Sec. 5. Regulations related to disability classifications and CDRs.
- Sec. 6. Time-limiting disability benefits for MIE and MIL individuals.
- Sec. 7. Encouraging work by MIE and MIL individuals.
- Sec. 8. Increased funding for continuing disability reviews.
- Sec. 9. Work opportunity tax credit for hiring social security disability beneficiaries.

1 SEC. 2. INFORMATION RELATING TO THE TICKET TO WORK
2 AND SELF-SUFFICIENCY PROGRAM.

3 Section 1148(d) of the Social Security Act (42 U.S.C.
4 1320b–19(d)) is amended by adding at the end the fol-
5 lowing:

6 “(8) PROGRAM ADVERTISEMENT.—The Com-
7 missioner of Social Security shall disseminate infor-
8 mation relating to participation in the Program to
9 each disabled beneficiary at the time of such bene-
10 ficiary’s entitlement to benefits and every 6 months
11 thereafter.”.

12 SEC. 3. REVISING DISABILITY CLASSIFICATIONS.

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

16 “(n)(1) Not later than 1 year after the date of the
17 enactment of this subsection, the Commissioner of Social
18 Security shall establish a system for classifying any indi-
19 vidual who is determined to be entitled to disability insur-
20 ance benefits under this title or to monthly benefits under

1 section 202 by reason of being under a disability in the
2 following manner:

3 “(A) An individual shall be classified as ‘med-
4 ical improvement expected’ if the impairment or
5 combination of impairments causing the individual
6 to be disabled is expected to medically improve to
7 the point where the individual will no longer be dis-
8 abled in 12 to 24 months.

9 “(B) An individual shall be classified as ‘med-
10 ical improvement likely’ if the impairment or com-
11 bination of impairments causing the individual to be
12 disabled is expected to medically improve to the
13 point where the individual will no longer be disabled
14 in 25 months to 60 months.

15 “(C) An individual shall be classified as ‘med-
16 ical improvement possible’ if the impairment or com-
17 bination of impairments causing the individual to be
18 disabled is not expected to medically improve to the
19 point where the individual will no longer be disabled
20 in 60 months, but future improvement is possible.

21 “(D) An individual shall be classified as ‘med-
22 ical improvement not expected’ if the individual has
23 an impairment or combination of impairments that
24 is chronic or progressive with permanent, irreversible
25 structural or functional loss, and for which there is

1 no known effective therapy, treatment, or surgical
 2 intervention that could result in medical improve-
 3 ment to the point where the individual is no longer
 4 disabled.

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

10 “(3) Notwithstanding section 205(b)(1) or subsection
 11 (c)(1) or (d) of this section, there shall be no review of,
 12 or right to appeal, a classification made under the system
 13 established under this subsection.”.

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

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

18 (1) by amending paragraph (1) to read as fol-
 19 lows:

20 “(1)(A) In the case of any individual who has not
 21 attained age 63, is determined to be under a disability,
 22 and is classified as ‘medical improvement possible’ or
 23 ‘medical improvement not expected’, the applicable State
 24 agency or the Commissioner of Social Security (as may

1 be appropriate) shall, for purposes of determining such in-
2 dividual's continuing disability—

3 “(i) if the individual is classified as ‘medical im-
4 provement possible’, conduct a review to determine
5 whether the individual remains under a disability
6 during the 5th year following the first month after
7 the individual's waiting period (as defined in section
8 223(c)(2)); and

9 “(ii) if the individual is classified as ‘medical
10 improvement not expected’, conduct a review to de-
11 termine whether the individual remains under a dis-
12 ability during the 10th year following the first
13 month after the individual's waiting period (as so
14 defined).

15 “(B) In addition to the continuing disability reviews
16 required under subparagraph (A) and notwithstanding
17 how an individual is classified under the system estab-
18 lished by the Commissioner of Social Security under sub-
19 section (n), if the Commissioner has reason to believe that
20 an individual that has been determined to be under a dis-
21 ability is not under a disability, the Commissioner may
22 review such individual's case at such time and in such
23 manner as the Commissioner determines appropriate ex-
24 cept that the Commissioner shall not initiate a review on

1 the basis of income earned by an individual who is a par-
 2 ticipant in the process established under section 223(l).

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

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

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

11 (b) STANDARD OF REVIEW FOR CONTINUING DIS-
 12 ABILITY REVIEWS.—

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

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

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

19 “(5) in the case of a continuing disability re-
 20 view under section 221(i), evidence that would be
 21 sufficient to support a finding in an initial deter-
 22 mination that the individual is not under a disability
 23 and is able to engage in substantial gainful activ-
 24 ity.”; and

1 (C) in the flush matter at the end, by in-
 2 serting “, except that, in the case of a con-
 3 tinuing disability review under section 221(i),
 4 the Commissioner shall not consider the fact
 5 that an individual is engaged in substantial
 6 gainful work as part of the process established
 7 under subsection (l) as evidence that the indi-
 8 vidual is able to engage in substantial gainful
 9 activity” after “secured by the Commissioner of
 10 Social Security”.

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

14 (A) in subparagraph (A), by striking “An
 15 individual” and inserting “Subject to subpara-
 16 graph (D), an individual”; and

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

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

1 **SEC. 5. REGULATIONS RELATED TO DISABILITY CLASSI-**
 2 **FICATIONS AND CDRS.**

3 The Commissioner of Social Security shall promul-
 4 gate or revise, as appropriate, regulations relating to the
 5 determination, classification, and review of the disability
 6 status of individuals who apply for or receive disability in-
 7 surance benefits under title II of the Social Security Act
 8 and related provisions of agency guidance to carry out sec-
 9 tion 3 and the amendments made by section 4.

10 **SEC. 6. TIME-LIMITING DISABILITY BENEFITS FOR MIE AND**
 11 **MIL INDIVIDUALS.**

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

14 (1) in subsection (a)(1), in the flush language
 15 after and below subparagraph (E), by striking “sub-
 16 section (e)” and inserting “subsections (e) and (k)”;
 17 and

18 (2) by adding at the end the following new sub-
 19 section:

20 “Time-Limited Disability Benefits

21 “(k)(1) In the case of an individual who files an appli-
 22 cation for disability insurance benefits under this section
 23 or for monthly benefits under section 202 by reason of
 24 being under a disability for any month that begins on or
 25 after the date that is 1 year after the date of the enact-
 26 ment of the Social Security Disability Insurance Return

1 to Work Act, is determined to be under a disability, and
 2 is classified by the Commissioner of Social Security as
 3 ‘medical improvement expected’ or ‘medical improvement
 4 likely’, the termination month applicable to the individual
 5 shall be—

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

10 “(B) if the individual has been classified as
 11 ‘medical improvement likely’, the 59th month fol-
 12 lowing the first month after the individual’s waiting
 13 period (as so defined).

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

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

21 “(II) during the period that is 14 months be-
 22 fore the end of the termination month applicable (or
 23 most recently applicable) to the individual under
 24 paragraph (1) as of the date of such application and

1 ending with the date that is 12 months before the
2 end of such termination month.

3 “(ii) Notwithstanding clause (i), the Commissioner of
4 Social Security may deem an application for disability in-
5 surance benefits under this section or for monthly benefits
6 under section 202 by reason of being under a disability
7 submitted by an individual who is a recipient of such bene-
8 fits that is submitted after the period described in clause
9 (i)(II) to be a timely reapplication if—

10 “(I) the individual can show good cause for why
11 the application was not submitted during such pe-
12 riod; and

13 “(II) the application is submitted not later than
14 6 months before the end of the termination month
15 applicable (or most recently applicable) to the indi-
16 vidual under paragraph (1) as of the date of such
17 application.

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

22 “(ii)(I) If the Commissioner of Social Security fails
23 to make an initial determination with respect to the timely
24 reapplication of an individual who is a recipient of dis-
25 ability insurance benefits under this section or monthly

1 benefits under section 202 by reason of being under a dis-
2 ability before the end of the termination month applicable
3 to the individual as of the date of such reapplication, such
4 individual shall continue to be entitled to such benefits
5 until an initial determination with respect to such timely
6 reapplication is made.

7 “(II) If the Commissioner of Social Security makes
8 an initial adverse determination with respect to the timely
9 reapplication of an individual who is a recipient of dis-
10 ability insurance benefits under this section or monthly
11 benefits under section 202 by reason of being under a dis-
12 ability and such individual files a timely request for a
13 hearing under section 221(d), such individual may elect
14 to have the payment of such benefits (as well as any other
15 benefits payable under this title or title XVIII on the basis
16 of such individual’s entitlement to such benefits) continue
17 in the same manner and subject to the same conditions
18 as an election made under subsection (g).

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

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

6 SEC. 7. ENCOURAGING WORK BY MIE AND MIL INDIVID-
7 UALS.

8 (a) IN GENERAL.—Section 223 of the Social Security
9 Act (42 U.S.C. 423), as amended by section 6, is further
10 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 sub-
section:

“Treatment of Work Performed by Certain Disabled
Individuals

19 “(1)(1) The Commissioner of Social Security shall es-
20 tablish a process whereby an eligible individual who is enti-
21 tled to a disability insurance benefit under this section
22 may elect to return to employment and receive an adjusted
23 disability insurance benefit amount (as determined pursu-
24 ant to paragraph (3)).

1 “(2)(A) For purposes of this subsection, the term ‘eli-
2 gible individual’ means an individual who has been classi-
3 fied as ‘medical improvement expected’ or ‘medical im-
4 provement likely’.

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

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

14 “(i) in the case of an individual who has aver-
15 age monthly earnings (as determined under subpara-
16 graph (B)) equal to or less than the level of monthly
17 earnings established by the Commissioner to rep-
18 resent substantial gainful activity, the amount other-
19 wise applicable for such individual under subsection
20 (a)(2); or

21 “(ii) in the case of an individual who has aver-
22 age monthly earnings (as determined under subpara-
23 graph (B)) that are in excess of the level of monthly
24 earnings established by the Commissioner to rep-
25 resent substantial gainful activity, the amount of the

1 disability insurance benefit that would otherwise
2 apply for such individual under subsection (a)(2) re-
3 duced (but not below zero) by an amount equal to
4 50 percent of the excess of such individual's average
5 monthly earnings over the level of monthly earnings
6 established by the Commissioner to represent sub-
7 stantial gainful activity.

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

10 “(I) the total amount of wages and self-employ-
11 ment income for such individual in any eligible
12 months during the 2 calendar quarters (as defined
13 in section 213(a)(1)) that precede the most recently
14 completed calendar quarter; and

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

17 “(ii) For purposes of clause (i), the term ‘eligible
18 month’ means any month subsequent to the month in
19 which an eligible individual became entitled to a disability
20 insurance benefit.

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

1 “(5) For purposes of an eligible individual who has
 2 elected to return to employment under this subsection, any
 3 services performed or earnings derived from services dur-
 4 ing the period of such participation shall not be considered
 5 for purposes of demonstrating an individual’s ability to en-
 6 gage in substantial gainful activity under subsection (d)(4)
 7 and shall not be considered substantial gainful activity for
 8 purposes of subsection (e).

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

15 (b) CONFORMING AMENDMENT.—Section
 16 221(m)(2)(B) of the Social Security Act (42 U.S.C.
 17 421(m)(2)(B)) is amended by inserting “(unless such indi-
 18 vidual is participating in the process established under
 19 section 223(l))” before the period.

20 (c) EFFECTIVE DATE.—The amendments made by
 21 this section shall apply to benefits payable for months be-
 22 ginning on or after April 1, 2022.

1 **SEC. 8. INCREASED FUNDING FOR CONTINUING DISABILITY**
 2 **REVIEWS.**

3 Notwithstanding any other provision of law, for any
 4 calendar year after 2021—

5 (1) the Commissioner of Social Security shall
 6 determine the amount of any reduction in expendi-
 7 tures from the Federal Disability Insurance Trust
 8 Fund (as defined in section 201(b) of the Social Se-
 9 curity Act (42 U.S.C. 401(b))) during the preceding
 10 calendar year by reason of the provisions of this Act
 11 and the amendments made by this Act; and

12 (2) 10 percent of the amount determined under
 13 paragraph (1) shall be authorized to be made avail-
 14 able from the Federal Disability Insurance Trust
 15 Fund for continuing disability reviews (as defined in
 16 section 201(g)(1)(A) of the Social Security Act (42
 17 U.S.C. 401(g)(1)(A))).

18 **SEC. 9. WORK OPPORTUNITY TAX CREDIT FOR HIRING SO-**
 19 **CIAL SECURITY DISABILITY BENEFICIARIES.**

20 (a) IN GENERAL.—Section 51(d) of the Internal Rev-
 21 enue Code of 1986 is amended—

22 (1) in paragraph (1)—

23 (A) in subparagraph (I), by striking “or”;

24 (B) in subparagraph (J), by striking the
 25 period and inserting “, or”; and

26 (C) by adding at the end the following:

1 “(K) a qualified social security disability
2 insurance beneficiary.”; and

3 (2) by adding at the end the following:

4 “(16) QUALIFIED SOCIAL SECURITY DISABILITY
5 INSURANCE BENEFICIARY.—The term ‘qualified so-
6 cial security disability insurance beneficiary’ means
7 any individual who is certified by the designated
8 local agency as being entitled to disability insurance
9 benefits under title II of the Social Security Act for
10 any month ending within the 60-day period ending
11 on the hiring date.”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 subsection (a) shall apply to individuals who begin work
14 for the employer after December 31, 2021.

○