

118TH CONGRESS
1ST SESSION

S. 3316

To amend title II of the Social Security Act to allow disabled individuals with incurable terminal illnesses listed on the Compassionate Allowance list to receive disability insurance benefits without a waiting period, to prohibit concurrent receipt of disability insurance benefits and unemployment insurance, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 15, 2023

Mr. LEE introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title II of the Social Security Act to allow disabled individuals with incurable terminal illnesses listed on the Compassionate Allowance list to receive disability insurance benefits without a waiting period, to prohibit concurrent receipt of disability insurance benefits and unemployment insurance, 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.**

4 This Act may be cited as the “Immediate Access for
5 the Terminally Ill Act”.

1 **SEC. 2. OPTION FOR DISABLED INDIVIDUALS WITH INCUR-**
 2 **ABLE TERMINAL ILLNESSES LISTED ON THE**
 3 **COMPASSIONATE ALLOWANCE LIST TO RE-**
 4 **CEIVE DISABILITY INSURANCE BENEFITS**
 5 **WITHOUT A WAITING PERIOD.**

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

8 (1) in subsection (a)(1), in the matter following
 9 subparagraph (E)—

10 (A) by inserting “and who files an applica-
 11 tion for disability insurance benefits during the
 12 period that begins on December 22, 2020, and
 13 ends on the date that is 1 year after the date
 14 of enactment of the Immediate Access for the
 15 Terminally Ill Act” after “amyotrophic lateral
 16 sclerosis”; and

17 (B) by striking “, or (iii)” and inserting “,
 18 (iii) in the case of an individual who makes an
 19 election under subsection (k), for each month
 20 beginning with the first month during all of
 21 which the individual is under a disability and in
 22 which the individual becomes entitled to such
 23 insurance benefits, or (iv)”;

24 (2) by adding at the end the following new sub-
 25 section:

1 “(k) OPTION FOR DISABLED INDIVIDUALS WITH
 2 TERMINAL ILLNESSES TO RECEIVE DISABILITY INSUR-
 3 ANCE BENEFITS WITHOUT A WAITING PERIOD.—

4 “(1) IN GENERAL.—An individual who is enti-
 5 tled to a disability insurance benefit and has been
 6 diagnosed with a medical condition or disease that
 7 is included in the most recent list published by the
 8 Commissioner of Social Security under paragraph
 9 (2) may elect to receive such benefit beginning with
 10 the first month during all of which the individual is
 11 under a disability and in which the individual be-
 12 comes entitled to such benefit.

13 “(2) PUBLICATION OF LIST.—Not later than 6
 14 months after the date of enactment of this sub-
 15 section, and every 5 years thereafter, the Commis-
 16 sioner of Social Security shall, through a formal
 17 rulemaking process in accordance with sections 556
 18 and 557 of title 5, United States Code, publish a list
 19 of medical conditions and diseases—

20 “(A) which are included in the most recent
 21 list of Compassionate Allowance Conditions
 22 published by the Social Security Administra-
 23 tion;

24 “(B) for which the average life expectancy
 25 for all individuals diagnosed with such condition

1 or disease does not exceed 5 years from the
 2 date of diagnosis; and

3 “(C) for which there is no known cure.

4 “(3) REDUCTION IN BENEFIT AMOUNT.—If an
 5 individual described in paragraph (1) elects to re-
 6 ceive a disability insurance benefit beginning with
 7 the first month during all of which the individual is
 8 under a disability and in which the individual be-
 9 comes entitled to such benefit, the amount of such
 10 benefit for any month shall be equal to 93 percent
 11 of the amount otherwise determined for the indi-
 12 vidual under subsection (a)(2) (after the application
 13 of sections 202(q) and 215(b)(2)(A)(ii)).

14 “(4) TIMING AND EFFECT OF ELECTION.—An
 15 individual may only make an election under this sub-
 16 section at the time the individual files an application
 17 for a disability insurance benefit under subsection
 18 (b), and any election under this subsection shall be
 19 irrevocable.”.

20 (b) CONFORMING AMENDMENTS.—Section 223(a)(2)
 21 of the Social Security Act (42 U.S.C. 423(a)(2)) is amend-
 22 ed—

23 (1) by striking “section 202(q) and” and insert-
 24 ing “subsection (k)(3), section 202(q), and”; and

1 (2) in subparagraph (B), by striking “clause
 2 (ii) of paragraph (1)” and inserting “clause (ii),
 3 (iii), or (iv) of the matter following subparagraph
 4 (E) of paragraph (1)”.

5 (c) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply with respect to applications for dis-
 7 ability insurance benefits filed on or after the date that
 8 is 6 months after the date of enactment of this Act.

9 **SEC. 3. CONGRESSIONAL APPROVAL REQUIRED FOR ADDI-**
 10 **TIONS TO COMPASSIONATE ALLOWANCE**
 11 **CONDITIONS LIST.**

12 Section 223(k) of the Social Security Act (42 U.S.C.
 13 423(k)) (as added by section 2 of this Act), is amended
 14 by adding at the end the following:

15 “(5) CONGRESSIONAL APPROVAL REQUIRED
 16 FOR ADDITIONS TO COMPASSIONATE ALLOWANCE
 17 CONDITIONS LIST.—Beginning on the date of enact-
 18 ment of this subsection, no disease or medical condi-
 19 tion may be added to the list of Compassionate Al-
 20 lowance Conditions published by the Social Security
 21 Administration unless there is enacted into law a bill
 22 or joint resolution approving such addition.”.

1 **SEC. 4. PROHIBITION ON PAYMENT OF SOCIAL SECURITY**
 2 **DISABILITY BENEFITS BASED ON RECEIPT OF**
 3 **UNEMPLOYMENT COMPENSATION.**

4 (a) IN GENERAL.—Title II of the Social Security Act
 5 (42 U.S.C. 401 et seq.) is amended by inserting after sec-
 6 tion 224 the following new section:

7 “PROHIBITION ON PAYMENT OF BENEFITS BASED ON
 8 RECEIPT OF UNEMPLOYMENT COMPENSATION

9 “SEC. 224A. (a) If for any month prior to the month
 10 in which an individual attains retirement age (as defined
 11 in section 216(l)(1))—

12 “(1) such individual is entitled to benefits
 13 under section 223, and

14 “(2) such individual is entitled for such month
 15 to unemployment compensation,

16 the total of the individual’s benefits under section 223 for
 17 such month and of any benefits under subsections (b)
 18 through (h) of section 202 for such month based on the
 19 individual’s wages and self-employment income shall be re-
 20 duced to zero.

21 “(b)(1) Notwithstanding any other provision of law,
 22 the head of any Federal agency shall provide such infor-
 23 mation within its possession as the Commissioner may re-
 24 quire for purposes of making a timely determination under
 25 this section for reduction of benefits payable under this

1 title, or verifying other information necessary in carrying
2 out the provisions of this section.

3 “(2) The Commissioner is authorized to enter into
4 agreements with States, political subdivisions, and other
5 organizations that administer unemployment compensa-
6 tion, in order to obtain such information as the Commis-
7 sioner may require to carry out the provisions of this sec-
8 tion.

9 “(3) Any determination by the Commissioner pursu-
10 ant to this section shall be subject to the requirements
11 described in section 205(b)(1), including provision of rea-
12 sonable notice and opportunity for a hearing.

13 “(c) For purposes of this section, the term ‘unem-
14 ployment compensation’ has the meaning given that term
15 in section 85(b) of the Internal Revenue Code of 1986.”.

16 **SEC. 5. INCREASING THE OVERPAYMENT COLLECTION**
17 **THRESHOLD FOR OLD-AGE, SURVIVORS, AND**
18 **DISABILITY INSURANCE BENEFITS.**

19 (a) IN GENERAL.—Section 204(a)(1)(A) of the Social
20 Security Act (42 U.S.C. 404(a)(1)(A)) is amended—

21 (1) by striking “With respect to” and ‘inserting

22 “(i) Subject to clause (ii), with respect to”; and

23 (2) by adding at the end the following new
24 clause:

1 “(ii) For purposes of clause (i), if the
2 Commissioner of Social Security deter-
3 mines that decreasing a payment under
4 this title to an individual by 100 percent
5 would defeat the purpose of this title, the
6 Commissioner may decrease such payment
7 by a smaller amount, provided that such
8 smaller amount is not less than 10 percent
9 of the amount of such payment.”.

○