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(Original Signature of Member)

114TH CONGRESS  
2D SESSION

# H. R.

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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

Mr. HILL introduced the following bill; which was referred to the Committee  
on \_\_\_\_\_

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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”.

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

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

3 **SEC. 2. REVISING DISABILITY CLASSIFICATIONS.**

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

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

14 “(A) An individual shall be classified as  
15 ‘medical improvement expected’ if the impair-  
16 ment or combination of impairments causing  
17 the individual to be disabled is expected to  
18 medically improve to the point where the indi-  
19 vidual will no longer be disabled in 12 to 24  
20 months.

21 “(B) An individual shall be classified as  
22 ‘medical improvement likely’ if the impairment

1 or combination of impairments causing the indi-  
2 vidual to be disabled is expected to medically  
3 improve to the point where the individual will  
4 no longer be disabled in 25 months to 60  
5 months.

6 “(C) An individual shall be classified as  
7 ‘medical improvement possible’ if the impair-  
8 ment or combination of impairments causing  
9 the individual to be disabled is not expected to  
10 medically improve to the point where the indi-  
11 vidual will no longer be disabled in 60 months,  
12 but future improvement is possible.

13 “(D) An individual shall be classified as  
14 ‘medical improvement not expected’ if the indi-  
15 vidual has an impairment or combination of im-  
16 pairments that is chronic or progressive with  
17 permanent, irreversible structural or functional  
18 loss, and for which there is no known effective  
19 therapy, treatment, or surgical intervention that  
20 could result in medical improvement to the  
21 point where the individual is no longer disabled.

22 “(2) In classifying an individual under the sys-  
23 tem established under this subsection, the Commis-  
24 sioner of Social Security shall not classify an indi-  
25 vidual as ‘medical improvement not expected’ solely

1 by reason of such individual's age where a lesser  
2 classification is appropriate.

3 “(3) Notwithstanding section 205(b)(1) or sub-  
4 sections (c)(1) or (d) of this section, there shall be  
5 no review of, or right to appeal, a classification  
6 made under the system established under this sub-  
7 section”.

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

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

12 (1) by amending paragraph (1) to read as fol-  
13 lows:

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

21 “(i) if the individual is classified as ‘med-  
22 ical improvement possible’, conduct a review to  
23 determine whether the individual remains under  
24 a disability during the 5<sup>th</sup> year following the

1 first month after the individual's waiting period  
2 (as defined in section 223(c)(2)); and

3 “(ii) if the individual is classified as ‘med-  
4 ical improvement not expected’, conduct a re-  
5 view to determine whether the individual re-  
6 mains under a disability during the 10<sup>th</sup> year  
7 following the first month after the individual's  
8 waiting period (as so defined).

9 “(B) In addition to the continuing disability re-  
10 views required under subparagraph (A) and notwith-  
11 standing how an individual is classified under the  
12 system established by the Commissioner of Social  
13 Security under subsection (n), if the Commissioner  
14 has reason to believe that an individual that has  
15 been determined to be under a disability is not  
16 under a disability, the Commissioner may review  
17 such individual's case at such time and in such man-  
18 ner as the Commissioner determines appropriate ex-  
19 cept that the Commissioner shall not initiate a re-  
20 view on the basis of income earned by an individual  
21 who is a participant in the process established under  
22 section 223(l).

23 “(C) Reviews of cases which are required or  
24 permitted under this paragraph shall be in addition  
25 to, and shall not be considered as a substitute for,

1 any other reviews which are required or provided for  
2 under or in the administration of this title.”;

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

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

6 (b) STANDARD OF REVIEW FOR CONTINUING DIS-  
7 ABILITY REVIEWS.—

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

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

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

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

20 (C) in the flush matter at the end, by in-  
21 serting “, except that, in the case of a con-  
22 tinuing disability review under section 221(i),  
23 the Commissioner shall not consider the fact  
24 that an individual is engaged in substantial  
25 gainful work as part of the process established

1 under subsection (l) as evidence that the indi-  
2 vidual is able to engage in substantial gainful  
3 activity” after “secured by the Commissioner of  
4 Social Security”.

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

8 (A) in subparagraph (A), by striking “An  
9 individual” and inserting “Subject to subpara-  
10 graph (D), an individual”

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

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

18 **SEC. 4. REGULATIONS RELATED TO DISABILITY CLASSI-**  
19 **FICATIONS AND CDRS.**

20 The Commissioner of Social Security shall promul-  
21 gate or revise, as appropriate, regulations relating to the  
22 determination, classification, and review of the disability  
23 status of individuals who apply for or receive disability in-  
24 surance benefits under title II of the Social Security Act

1 and related provisions of agency guidance to carry out sec-  
2 tion 2 and the amendments made by section 3.

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

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

7 (1) in subsection (a)(1), in the flush language  
8 after and below subparagraph (E), by striking “sub-  
9 section (e)” and inserting “subsections (e) and (k)”;  
10 and

11 (2) by adding at the end the following new sub-  
12 section:

13 “Time-limited Disability Benefits

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

1           “(A) if the individual has been classified as  
2           ‘medical improvement expected’, the 23<sup>rd</sup> month fol-  
3           lowing the first month after the individual’s waiting  
4           period (as defined in subsection (c)(2)); or

5           “(B) if the individual has been classified as  
6           ‘medical improvement likely’, the 59<sup>th</sup> month fol-  
7           lowing the first month after the individual’s waiting  
8           period (as so defined).

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

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

16                 “(II) during the period that is 14 months be-  
17          fore the end of the termination month applicable (or  
18          most recently applicable) to the individual under  
19          paragraph (1) as of the date of such application and  
20          ending with the date that is 12 months before the  
21          end of such termination month.

22                 “(ii) Notwithstanding clause (i), the Commissioner of  
23          Social Security may deem an application for disability in-  
24          surance benefits under this section or for monthly benefits  
25          under section 202 by reason of being under a disability

1 submitted by an individual who is a recipient of such bene-  
2 fits that is submitted after the period described in clause  
3 (i)(II) to be a timely reapplication if—

4 “(I) the individual can show good cause for why  
5 the application was not submitted during such pe-  
6 riod; and

7 “(II) the application is submitted not later than  
8 6 months before the end of the termination month  
9 applicable (or most recently applicable) to the indi-  
10 vidual under paragraph (1) as of the date of such  
11 application.

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

16 “(ii)(I) If the Commissioner of Social Security fails  
17 to make an initial determination with respect to the timely  
18 reapplication of an individual who is a recipient of dis-  
19 ability insurance benefits under this section or monthly  
20 benefits under section 202 by reason of being under a dis-  
21 ability before the end of the termination month applicable  
22 to the individual as of the date of such reapplication, such  
23 individual shall continue to be entitled to such benefits  
24 until an initial determination with respect to such timely  
25 reapplication is made.

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

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

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

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

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

1 **SEC. 6. ENCOURAGING WORK BY MIE AND MIL INDIVID-**  
2 **UALS.**

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

6 (1) in subsection (a)(2), by striking “section  
7 202(q) and section 215(b)(2)(A)(ii)” and inserting  
8 “subsection (l) and sections 202(q) and  
9 215(b)(2)(A)(ii)”;

10 (2) by adding at the end the following new sub-  
11 section:

12 “Treatment of Work Performed by Certain Disabled  
13 Individuals

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

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

24 “(B) Participation by an eligible individual in the  
25 process established under this subsection shall be sus-  
26 pended if such individual has no reported wages or self-

1 employment income for the 4 preceding calendar quarters  
2 (as defined in section 213(a)(1)).

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

7 “(i) in the case of an individual who has aver-  
8 age monthly earnings (as determined under subpara-  
9 graph (B)) equal to or less than the level of monthly  
10 earnings established by the Commissioner to rep-  
11 resent substantial gainful activity, the amount other-  
12 wise applicable for such individual under subsection  
13 (a)(2); or

14 “(ii) in the case of individual who has average  
15 monthly earnings (as determined under subpara-  
16 graph (B)) that are in excess of the level of monthly  
17 earnings established by the Commissioner to rep-  
18 resent substantial gainful activity, the amount of the  
19 disability insurance benefit that would otherwise  
20 apply for such individual under subsection (a)(2) re-  
21 duced (but not below zero) by an amount equal to  
22 50 percent of the excess of such individual’s average  
23 monthly earnings over the level of monthly earnings  
24 established by the Commissioner to represent sub-  
25 stantial gainful activity.

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

3                   “(I) the total amount of wages and self-employ-  
4 ment income for such individual in any eligible  
5 months during the 2 calendar quarters (as defined  
6 in section 213(a)(1)) that precede the most recently  
7 completed calendar quarter, and

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

10          “(ii) For purposes of clause (i), the term ‘eligible  
11 month’ means any month subsequent to the month in  
12 which an eligible individual became entitled to a disability  
13 insurance benefit.

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

19          “(5) For purposes of an eligible individual who has  
20 elected to return to employment under this subsection, any  
21 services performed or earnings derived from services dur-  
22 ing the period of such participation shall not be considered  
23 for purposes of demonstrating an individual’s ability to en-  
24 gage in substantial gainful activity under subsection (d)(4)

1 and shall not be considered substantial gainful activity for  
2 purposes of subsection (e).

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

9 (b) CONFORMING AMENDMENT.—Section  
10 221(m)(2)(B) of the Social Security Act (42 U.S.C.  
11 421(m)(2)(B)) is amended by inserting “(unless such indi-  
12 vidual is participating in the process established under  
13 section 223(l))” before the period.

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

17 **SEC. 7. INCREASED FUNDING FOR CONTINUING DISABILITY**  
18 **REVIEWS.**

19 Notwithstanding any other provision of law, for any  
20 calendar year after 2017—

21 (1) the Commissioner of Social Security shall  
22 determine the amount of any reduction in expendi-  
23 tures from the Federal Disability Insurance Trust  
24 Fund (as defined in section 201(b) of the Social Se-  
25 curity Act (42 U.S.C. 401(b))) during the preceding

1 calendar year by reason of the provisions of this Act  
2 and the amendments made by this Act; and

3 (2) 10 percent of the amount determined under  
4 paragraph (1) shall be authorized to be made avail-  
5 able from the Federal Disability Insurance Trust  
6 Fund for continuing disability reviews (as defined in  
7 section 201(g)(1)(A) of the Social Security Act (42  
8 U.S.C. 401(g)(1)(A))).