

110TH CONGRESS
1ST SESSION

H. R. 2713

To amend title II of the Social Security Act to authorize waivers by the Commissioner of Social Security of the 5-month waiting period for entitlement to benefits based on disability in cases in which the Commissioner determines that such waiting period would cause undue hardship to terminally ill beneficiaries, and to provide for a study by the Commissioner regarding possible improvements in disability claims processing.

IN THE HOUSE OF REPRESENTATIVES

JUNE 14, 2007

Mr. PICKERING (for himself, Mr. POMEROY, and Mr. CANTOR) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend title II of the Social Security Act to authorize waivers by the Commissioner of Social Security of the 5-month waiting period for entitlement to benefits based on disability in cases in which the Commissioner determines that such waiting period would cause undue hardship to terminally ill beneficiaries, and to provide for a study by the Commissioner regarding possible improvements in disability claims processing.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Joseph H. Seall Act
3 of 2007”.

4 **SEC. 2. WAIVER OF 5-MONTH WAITING PERIOD FOR BENE-**
5 **FITS BASED ON DISABILITY IN CASES OF TER-**
6 **MINALLY ILL BENEFICIARIES.**

7 (a) **DISABILITY INSURANCE BENEFITS.**—Section
8 223(a) of the Social Security Act (42 U.S.C. 423(a)) is
9 amended by adding at the end the following new para-
10 graph:

11 “(3) The Commissioner of Social Security may waive
12 the application of the individual’s waiting period under
13 clause (i) in the first sentence of paragraph (1) if the
14 Commissioner determines that such individual would oth-
15 erwise be entitled to disability insurance benefits under
16 this section, that such individual is terminally ill, and that
17 the application of the waiting period would work an undue
18 hardship on such individual (as determined on the basis
19 of criteria established by the Commissioner). In the case
20 of any such waiver granted by the Commissioner with re-
21 spect to an individual, notwithstanding clauses (i) and (ii)
22 in the first sentence of paragraph (1), the individual shall
23 be entitled to disability insurance benefits for each month,
24 beginning with the first month during all of which such
25 individual is under a disability and in which such indi-
26 vidual would become so entitled to such insurance benefits

1 under such sentence but for such waiting period, and end-
2 ing as provided in paragraph (1). For purposes of this
3 paragraph, an individual is considered to be ‘terminally
4 ill’ if the individual has a medical prognosis that the indi-
5 vidual’s life expectancy is 6 months or less.”.

6 (b) WIDOW’S INSURANCE BENEFITS BASED ON DIS-
7 ABILITY.—Section 202(e)(5) of such Act (42 U.S.C.
8 402(e)(5)) is amended by adding at the end the following
9 new subparagraph:

10 “(C) The Commissioner of Social Security may waive
11 the application of the individual’s waiting period under
12 paragraph (1)(F)(i) if the Commissioner determines that
13 she would otherwise be entitled to widow’s insurance bene-
14 fits under this section, that she is terminally ill, and that
15 such application of the waiting period would work an
16 undue hardship on her (as determined on the basis of cri-
17 teria established by the Commissioner). In the case of any
18 such waiver granted by the Commissioner with respect to
19 an individual, notwithstanding clauses (i) and (ii) of para-
20 graph (1)(F), she shall be entitled to widow’s insurance
21 benefits for each month, beginning with the first month
22 during all of which she is under a disability and in which
23 she would become so entitled to such insurance benefits
24 under paragraph (1) but for such waiting period, and end-
25 ing as provided in paragraph (1). For purposes of this

1 subparagraph, an individual is considered to be ‘terminally
2 ill’ if the individual has a medical prognosis that the indi-
3 vidual’s life expectancy is 6 months or less.”.

4 (c) WIDOWER’S INSURANCE BENEFITS BASED ON
5 DISABILITY.—Section 202(f)(6) of such Act (42 U.S.C.
6 402(f)(6)) is amended by adding at the end the following
7 new subparagraph:

8 “(C) The Commissioner of Social Security may waive
9 the application of the individual’s waiting period under
10 paragraph (1)(F)(i) if the Commissioner determines that
11 he would otherwise be entitled to widower’s insurance ben-
12 efits under this section, that he is terminally ill, and that
13 such application would work an undue hardship on him
14 (as determined on the basis of criteria established by the
15 Commissioner). In the case of any such waiver granted
16 by the Commissioner with respect to an individual, not-
17 withstanding clauses (i) and (ii) of paragraph (1)(F), he
18 shall be entitled to widower’s insurance benefits for each
19 month, beginning with the first month during all of which
20 he is under a disability and in which he would become
21 so entitled to such insurance benefits under paragraph (1)
22 but for such waiting period, and ending as provided in
23 paragraph (1). For purposes of this subparagraph, an in-
24 dividual is considered to be ‘terminally ill’ if the individual

1 has a medical prognosis that the individual’s life expect-
2 ancy is 6 months or less.”.

3 (d) COMMENCEMENT OF PERIOD OF DISABILITY.—
4 Section 216(i)(2)(A) of such Act (42 U.S.C. 416(i)(2)(A))
5 is amended—

6 (1) by inserting “(i)” after “(2)(A)”;

7 (2) by inserting “(I)” after “but only if”;

8 (3) by inserting “(II)” after “duration or”; and

9 (4) by adding at the end the following new
10 clause:

11 “(ii) The Commissioner of Social Security may waive
12 the application of the five-month requirement under clause
13 (i)(I) if the Commissioner determines that such individual
14 would otherwise be entitled to a period of disability under
15 this paragraph, that such individual is terminally ill, and
16 that the application of such five-month requirement would
17 work an undue hardship on such individual (as determined
18 on the basis of criteria established by the Commissioner).
19 For purposes of this clause, an individual is considered
20 to be ‘terminally ill’ if the individual has a medical prog-
21 nosis that the individual’s life expectancy is 6 months or
22 less.”.

23 (e) EFFECTIVE DATES.—The amendments made by
24 subsection (a) shall apply only with respect to benefits
25 under section 223 of the Social Security Act, or under sec-

1 tion 202 of such Act on the basis of the wages and self-
2 employment income of an individual entitled to benefits
3 under such section 223, for months beginning after 90
4 days after the date of the enactment of this Act. The
5 amendments made by subsections (b) and (c) shall apply
6 only with respect to benefits based on disability under sub-
7 section (e) or (f) of section 202 of the Social Security Act
8 for months after 90 days after the date of the enactment
9 of this Act. The amendments made by subsection (d) shall
10 apply only with respect to applications for disability deter-
11 minations filed under title II of the Social Security Act
12 after 90 days after the date of the enactment of this Act.

13 **SEC. 3. STUDY REGARDING DISABILITY CLAIMS PROC-**
14 **ESSING.**

15 (a) IN GENERAL.—As soon as practicable after the
16 date of the enactment of this Act, the Commissioner of
17 Social Security shall undertake a study regarding the
18 processing of claims for disability insurance benefits under
19 section 223 of the Social Security Act, other benefits
20 based on disability under section 202 of such Act, periods
21 of disability under section 216(i) of such Act, and supple-
22 mental security income benefits based on disability under
23 title XVI of such Act.

1 (b) MATTERS TO BE STUDIED.—In carrying out the
2 study required under subsection (a), the Commissioner
3 shall—

4 (1) analyze the methods and procedures cur-
5 rently employed in making determinations regarding
6 claims described in subsection (a), including methods
7 and procedures employed by State agencies and the
8 Social Security Administration under section 221 of
9 such Act, and

10 (2) compare such methods and procedures to
11 the methods and procedures currently employed by
12 other Federal and State agencies and disability ben-
13 efit providers in the private sector regarding claims
14 for disability benefits under programs administered
15 by such agencies and providers.

16 (c) REPORT.—Not later than 120 days after the date
17 of the enactment of this Act, the Commissioner shall re-
18 port to the Committee on Ways and Means of the House
19 of Representatives and the Committee on Finance of the
20 Senate the Commissioner’s recommendations regarding
21 possible improvements in the methods and procedures re-
22 ferred to in subsection (b)(1) (including methods and pro-
23 cedures that would expedite the disability determination
24 process as a means of remedying the current backlog in
25 the processing of claims described in subsection (a)) based

1 on the comparisons made pursuant to subsection (b)(2),
2 together with such recommendations for legislative
3 changes as the Commissioner may consider necessary or
4 appropriate to facilitate such improvements.

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