

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 728

To provide for the inclusion of specific items in any listing of impairments for the evaluation of human immunodeficiency virus (HIV) infection prescribed in regulations of the Secretary for use in making determinations of disability under titles II and XVI of the Social Security Act.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 1993

Mr. MATSUI (for himself and Mr. JACOBS) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To provide for the inclusion of specific items in any listing of impairments for the evaluation of human immunodeficiency virus (HIV) infection prescribed in regulations of the Secretary for use in making determinations of disability under titles II and XVI of the Social Security Act.

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 “Social Security and  
5 SSI AIDS Disability Act of 1993”.

1 **SEC. 2. SPECIFIC ITEMS REQUIRED IN LISTING OF IMPAIR-**  
2 **MENTS FOR EVALUATION OF HUMAN**  
3 **IMMUNODEFICIENCY VIRUS (HIV) INFECTION.**

4 (a) IN GENERAL.—The Secretary of Health and  
5 Human Services shall include, in any listing of impair-  
6 ments for the evaluation of human immunodeficiency virus  
7 infection used in making determinations of disability  
8 under title II or XVI of the Social Security Act, in addi-  
9 tion to such other items as the Secretary may include in  
10 the Secretary's discretion, items as specified in paragraphs  
11 (1), (2), and (3) of this subsection.

12 (1) The Secretary shall include the following  
13 among impairments for which meeting a functional  
14 test is not required in order to support a determina-  
15 tion of disability, subject only to the requirements  
16 that a test for human immunodeficiency virus infec-  
17 tion has been administered and that the results of  
18 such test are positive—

19 (A) pelvic inflammatory disease with three  
20 or more episodes or one or more episodes that  
21 require hospitalization or surgery;

22 (B) cervical cancer, FIGO stage IB; and

23 (C) syphilis or neurosyphilis refractory to  
24 appropriate treatment.

25 (2) The Secretary shall include the following  
26 among impairments for which meeting a functional

1 test is not required in order to support a determina-  
2 tion of disability, but which must be persistent or re-  
3 sistant to therapy:

4 (A) pneumonia;

5 (B) pulmonary tuberculosis;

6 (C) bacterial or fungal sepsis;

7 (D) meningitis;

8 (E) septic arthritis;

9 (F) endocarditis;

10 (G) peripheral neuropathy;

11 (H) Kaposi's sarcoma; and

12 (I) abscess of an internal body organ or  
13 cavity (excluding otitis media or superficial skin  
14 or mucosal abscesses).

15 (3) The Secretary shall include the following  
16 among impairments which must last for at least two  
17 months and must exist in combination with one  
18 other listed impairment, subject to the requirement  
19 that a functional test be met with respect to the  
20 combination of impairments—

21 (A) recurrent herpes simplex with lesions  
22 which recur more often than every 8 weeks or  
23 which are incompletely suppressed despite con-  
24 tinuous maintenance therapy;

1 (B) chronic anemia with persistent hemo-  
2 globin of less than 10.0 or hematocrit of less  
3 than 30.0 (regardless of AZT intake) or the  
4 need for blood transfusions more often than  
5 twice yearly;

6 (C) genital warts caused by human papil-  
7 loma virus which are unresponsive to therapy;  
8 and

9 (D) chronic genital ulcers which fail to re-  
10 spond to treatment.

11 (b) FUNCTIONAL TEST REQUIREMENTS.—

12 (1) IN GENERAL.—With respect to any item in  
13 a listing of impairments described in subsection (a)  
14 (irrespective of whether such item is listed in sub-  
15 section (a) or is otherwise listed in regulations of the  
16 Secretary), any requirement for a functional test  
17 shall be treated as met if one of the following re-  
18 quirements are met—

19 (A) a marked restriction of activities of  
20 daily living (evidenced in any case in which the  
21 individual is most of the time unable to perform  
22 independently such daily activities as household  
23 chores, grooming and hygiene, using a post of-  
24 fice, taking public transportation, and paying  
25 bills);

1 (B) marked difficulties in maintaining so-  
2 cial functioning (evidenced in any case in which  
3 the individual is most of the time unable to sus-  
4 tain interaction and communication);

5 (C) marked difficulties in completing tasks  
6 in a timely manner due to deficiencies in con-  
7 centration, persistence, or pace (evidenced in  
8 any case in which the individual is most of the  
9 time unable to sustain concentration, persist-  
10 ence, or pace to permit timely completion of  
11 tasks commonly found in work settings); or

12 (D) repeated episodes of decompensation,  
13 averaging 3 times a year or once every 4  
14 months, lasting 2 or more weeks each, which  
15 cause the individual to deteriorate.

16 (2) MARKED RESTRICTIONS OR DIFFICUL-  
17 TIES.—For purposes of subparagraphs (A), (B), and  
18 (C) of paragraph (1)—

19 (A) a finding of a “marked” restriction or  
20 difficulty may be based on a restriction or dif-  
21 ficulty with respect to either a single activity or  
22 function referred to in such subparagraphs or  
23 any combination of such activities or functions,  
24 if the degree of restriction or difficulty is such  
25 that it seriously interferes with the individual’s

1 ability to function independently, appropriately,  
2 and effectively, and

3 (B) the term “marked” does not imply  
4 that the impaired individual is confined to bed,  
5 hospitalized, or in a nursing home.

6 **SEC. 3. EFFECTIVE DATE.**

7 The provisions of section 2 shall apply with respect  
8 to determinations of disability made on or after  
9 December 18, 1991.

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