

111TH CONGRESS  
1ST SESSION

# S. 700

To amend title II of the Social Security Act to phase out the 24-month waiting period for disabled individuals to become eligible for Medicare benefits, to eliminate the waiting period for individuals with life-threatening conditions, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 25, 2009

Mr. BINGAMAN (for himself, Mr. BROWN, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title II of the Social Security Act to phase out the 24-month waiting period for disabled individuals to become eligible for Medicare benefits, to eliminate the waiting period for individuals with life-threatening conditions, 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 “Ending the Medicare Disability Waiting Period Act of  
6 2009”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Phase-out of waiting period for Medicare disability benefits.

Sec. 3. Elimination of waiting period for individuals with life-threatening conditions.

Sec. 4. Institute of Medicine study and report on delay and prevention of disability conditions.

3 **SEC. 2. PHASE-OUT OF WAITING PERIOD FOR MEDICARE**  
 4 **DISABILITY BENEFITS.**

5 (a) IN GENERAL.—Section 226(b) of the Social Secu-  
 6 rity Act (42 U.S.C. 426(b)) is amended—

7 (1) in paragraph (2)(A), by striking “, and has  
 8 for 24 calendar months been entitled to,” and insert-  
 9 ing “, and for the waiting period (as defined in sub-  
 10 section (k)) has been entitled to,”;

11 (2) in paragraph (2)(B), by striking “, and has  
 12 been for not less than 24 months,” and inserting “,  
 13 and has been for the waiting period (as defined in  
 14 subsection (k)),”;

15 (3) in paragraph (2)(C)(ii), by striking “, in-  
 16 cluding the requirement that he has been entitled to  
 17 the specified benefits for 24 months,” and inserting  
 18 “, including the requirement that the individual has  
 19 been entitled to the specified benefits for the waiting  
 20 period (as defined in subsection (k)),”; and

21 (4) in the flush matter following paragraph  
 22 (2)(C)(ii)(II)—

1 (A) in the first sentence, by striking “for  
2 each month beginning with the later of (I) July  
3 1973 or (II) the twenty-fifth month of his enti-  
4 tlement or status as a qualified railroad retire-  
5 ment beneficiary described in paragraph (2),  
6 and” and inserting “for each month beginning  
7 after the waiting period (as so defined) for  
8 which the individual satisfies paragraph (2)  
9 and”;

10 (B) in the second sentence, by striking  
11 “the ‘twenty-fifth month of his entitlement’ re-  
12 fers to the first month after the twenty-fourth  
13 month of entitlement to specified benefits re-  
14 ferred to in paragraph (2)(C) and”;

15 (C) in the third sentence, by striking “,  
16 but not in excess of 78 such months”.

17 (b) SCHEDULE FOR PHASE-OUT OF WAITING PE-  
18 RIOD.—Section 226 of the Social Security Act (42 U.S.C.  
19 426) is amended by adding at the end the following new  
20 subsection:

21 “(k) For purposes of subsection (b) (and for purposes  
22 of section 1837(g)(1) of this Act and section 7(d)(2)(ii)  
23 of the Railroad Retirement Act of 1974), the term ‘waiting  
24 period’ means—

25 “(1) for 2010, 18 months;

1 “(2) for 2011, 16 months;  
2 “(3) for 2012, 14 months;  
3 “(4) for 2013, 12 months;  
4 “(5) for 2014, 10 months;  
5 “(6) for 2015, 8 months;  
6 “(7) for 2016, 6 months;  
7 “(8) for 2017, 4 months;  
8 “(9) for 2018, 2 months; and  
9 “(10) for 2019 and each subsequent year, 0  
10 months.”.

11 (c) CONFORMING AMENDMENTS.—

12 (1) SUNSET.—Effective January 1, 2019, sub-  
13 section (f) of section 226 of the Social Security Act  
14 (42 U.S.C. 426) is repealed.

15 (2) MEDICARE DESCRIPTION.—Section 1811(2)  
16 of such Act (42 U.S.C. 1395c(2)) is amended by  
17 striking “entitled for not less than 24 months” and  
18 inserting “entitled for the waiting period (as defined  
19 in section 226(k))”.

20 (3) MEDICARE COVERAGE.—Section 1837(g)(1)  
21 of such Act (42 U.S.C. 1395p(g)(1)) is amended by  
22 striking “of the later of (A) April 1973 or (B) the  
23 third month before the 25th month of such entitle-  
24 ment” and inserting “of the third month before the

1 first month following the waiting period (as defined  
2 in section 226(k)) applicable under section 226(b)”.

3 (4) RAILROAD RETIREMENT SYSTEM.—Section  
4 7(d)(2)(ii) of the Railroad Retirement Act of 1974  
5 (45 U.S.C. 231f(d)(2)(ii)) is amended—

6 (A) by striking “, for not less than 24  
7 months” and inserting “, for the waiting period  
8 (as defined in section 226(k) of the Social Secu-  
9 rity Act); and

10 (B) by striking “could have been entitled  
11 for 24 calendar months, and” and inserting  
12 “could have been entitled for the waiting period  
13 (as defined in section 226(k) of the Social Secu-  
14 rity Act), and”.

15 (d) EFFECTIVE DATE.—Except as provided in sub-  
16 section (c)(1), the amendments made by this section shall  
17 apply to insurance benefits under title XVIII of the Social  
18 Security Act with respect to items and services furnished  
19 in months beginning at least 90 days after the date of  
20 the enactment of this Act (but in no case earlier than Jan-  
21 uary 1, 2010).

22 **SEC. 3. ELIMINATION OF WAITING PERIOD FOR INDIVID-**  
23 **UALS WITH LIFE-THREATENING CONDITIONS.**

24 (a) IN GENERAL.—Section 226(h) of the Social Secu-  
25 rity Act (42 U.S.C. 426(h)) is amended—

1           (1) by redesignating paragraphs (1), (2), and  
2           (3) as subparagraphs (A), (B), and (C), respectively;

3           (2) in the matter preceding subparagraph (A)  
4           (as redesignated by paragraph (1)), by inserting  
5           “(1)” after “(h)”;

6           (3) in paragraph (1) (as designated by para-  
7           graph (2))—

8           (A) in the matter preceding subparagraph  
9           (A) (as redesignated by paragraph (1)), by in-  
10          serting “or any other life-threatening condition”  
11          after “amyotrophic lateral sclerosis (ALS)”;  
12          and

13          (B) in subparagraph (B) (as redesignated  
14          by paragraph (1)), by striking “(rather than  
15          twenty-fifth month)”;

16          (4) by adding at the end the following new  
17          paragraph:

18          “(2) For purposes of identifying life-threatening con-  
19          ditions under paragraph (1), the Secretary shall compile  
20          a list of conditions that are fatal without medical treat-  
21          ment. In compiling such list, the Secretary shall—

22                 “(A) consult with the Director of the National  
23                 Institutes of Health (including the Office of Rare  
24                 Diseases), the Director of the Centers for Disease  
25                 Control and Prevention, the Director of the National

1 Science Foundation, and the Institute of Medicine of  
2 the National Academy of Sciences; and

3 “(B) annually review the compassionate allow-  
4 ances list of conditions of the Social Security Admin-  
5 istration.”.

6 (b) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to insurance benefits under title  
8 XVIII of the Social Security Act with respect to items and  
9 services furnished in months beginning at least 90 days  
10 after the date of the enactment of this Act (but in no case  
11 earlier than January 1, 2010).

12 **SEC. 4. INSTITUTE OF MEDICINE STUDY AND REPORT ON**  
13 **DELAY AND PREVENTION OF DISABILITY**  
14 **CONDITIONS.**

15 (a) STUDY.—The Secretary of Health and Human  
16 Services (in this section referred to as the “Secretary”)  
17 shall request that the Institute of Medicine of the National  
18 Academy of Sciences conduct a study on the range of dis-  
19 ability conditions that can be delayed or prevented if indi-  
20 viduals receive access to health care services and coverage  
21 before the condition reaches disability levels.

22 (b) REPORT.—Not later than the date that is 2 years  
23 after the date of enactment of this Act, the Secretary shall  
24 submit to Congress a report containing the results of the  
25 Institute of Medicine study authorized under this section.

1           (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
2 authorized to be appropriated to carry out this section  
3 \$750,000 for the period of fiscal years 2010 and 2011.

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