

105TH CONGRESS
2D SESSION

H. R. 4456

To amend title II of the Social Security Act to provide for an increase of up to 5 in the number of years disregarded in determining average annual earnings on which benefit amounts are based upon a showing of preclusion from remunerative work during such years occasioned by need to provide child care or care to a chronically dependent relative.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 6, 1998

Mrs. LOWEY 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 provide for an increase of up to 5 in the number of years disregarded in determining average annual earnings on which benefit amounts are based upon a showing of preclusion from remunerative work during such years occasioned by need to provide child care or care to a chronically dependent relative.

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 Care-
5 giver Act of 1997”.

1 **SEC. 2. INCREASE IN NUMBER OF YEARS DISREGARDED.**

2 (a) IN GENERAL.—Section 215(b)(2) of the Social
3 Security Act (42 U.S.C. 415(b)(2)) is amended—

4 (1) by striking the period at the end of clause

5 (ii) of subparagraph (A) and inserting a comma;

6 (2) by striking “Clause (ii), once” after and
7 below clause (ii) of subparagraph (A) and inserting
8 the following:

9 “and reduced further to the extent provided in subpara-
10 graph (B). Clause (ii), once”;

11 (3) by striking “If an individual” in the matter
12 following clause (ii) of subparagraph (A) and all that
13 follows through the end of subparagraph (A);

14 (4) by redesignating subparagraph (B) as sub-
15 paragraph (F); and

16 (5) by inserting after subparagraph (A) the fol-
17 lowing new subparagraphs:

18 “(B) Subject to subparagraph (C), in any case in
19 which—

20 “(i) in any calendar year which is included in
21 an individual’s computation base years—

22 “(I) such individual is living with a child
23 (of such individual or his or her spouse) under
24 the age of 12, or

25 “(II) such individual is living with a child
26 (of such individual or his or her spouse), a par-

1 ent (of such individual or his or her spouse), or
2 such individual's spouse while such child, par-
3 ent, or spouse is a chronically dependent indi-
4 vidual,

5 “(ii) such calendar year is not disregarded pur-
6 suant to subparagraphs (A) and (E) (in determining
7 such individual's benefit computation years) by rea-
8 son of the reduction in the number of such individ-
9 ual's elapsed years under subparagraph (A), and

10 “(iii) at any time during or after such calendar
11 year and on or before the date of the application by
12 such individual for benefits based on such individ-
13 ual's wages and self-employment income, such indi-
14 vidual submits to the Commissioner of Social Secu-
15 rity, in such form as the Commissioner shall pre-
16 scribe by regulations, a written statement that the
17 requirements of clause (i) are met with respect to
18 such calendar year,

19 then the number by which such elapsed years are reduced
20 under this paragraph pursuant to subparagraph (A) shall
21 be increased by one (up to a combined total not exceeding
22 5) for each such calendar year.

23 “(C)(i)(I) No calendar year shall be disregarded by
24 reason of subparagraph (B) (in determining such individ-
25 ual's benefit computation years) unless the individual had

1 less than the applicable dollar amount (in effect for such
2 calendar year under this clause) of earnings as described
3 in section 203(f)(5) for such year.

4 “(II) Except as otherwise provided in subclause (III),
5 the applicable dollar amount in effect under this clause
6 for any calendar year is \$2,000.

7 “(III) In each calendar year after 1997, the Commis-
8 sioner of Social Security shall determine and publish in
9 the Federal Register, on or before November 1 of such
10 calendar year, the applicable dollar amount which shall be
11 effective under this clause for the next calendar year. Such
12 dollar amount shall be equal to the larger of the applicable
13 dollar amount which is effective under this clause for the
14 calendar year in which such determination is made or,
15 subject to subclause (VII), the product described in sub-
16 clause (IV).

17 “(IV) The product described in this subclause is the
18 product derived by multiplying the applicable dollar
19 amount which is effective under this clause for the cal-
20 endar year in which the determination under subclause
21 (III) is made, by the ratio of the amount described in sub-
22 clause (V) to the amount described in subclause (VI).

23 “(V) The amount described in this subclause is the
24 national average wage index (as defined in section

1 209(k)(1)) for the calendar year before the calendar year
2 in which the determination under subclause (III) is made.

3 “(VI) The amount described in this subclause is the
4 national average wage index (as defined in section
5 209(k)(1)) for 1996 or, if later, the calendar year before
6 the most recent calendar year in which a determination
7 resulting in an increase in the applicable dollar amount
8 was made under subclause (III).

9 “(VII) If the product described in subclause (IV) is
10 not a multiple of \$1.00, such product shall be rounded
11 to the next higher multiple of \$1.00 in any case in which
12 such product is a multiple of \$0.50 but not of \$1.00, and
13 to the nearest multiple of \$1.00 in any other case.

14 “(ii) No calendar year shall be disregarded by reason
15 of subparagraph (B) (in determining such individual’s
16 benefit computation years) in connection with a child re-
17 ferred to in subparagraph (B)(i)(I) (and not referred to
18 in subparagraph (B)(i)(II)) unless the individual was liv-
19 ing with the child substantially throughout the period in
20 such year in which the child was alive and under the age
21 of 12 in such year.

22 “(iii) No calendar year shall be disregarded by reason
23 of subparagraph (B) (in determining such individual’s
24 benefit computation years) in connection with a child, par-
25 ent, or spouse referred to in subparagraph (B)(i)(II) un-

1 less the individual was living with such child, parent, or
2 spouse substantially throughout a period of 180 consec-
3 tive days in such year throughout which such child, par-
4 ent, or spouse was a chronically dependent individual.

5 “(iv) The particular calendar years to be disregarded
6 under this subparagraph (in determining such benefit
7 computation years) shall be those years (not otherwise dis-
8 regarded under subparagraph (A)) which, before the appli-
9 cation of subsection (f), meet the conditions of the preced-
10 ing provisions of this subparagraph.

11 “(v) This subparagraph shall apply only to the extent
12 that its application would not result in a lower primary
13 insurance amount.

14 “(D)(i) For purposes of this paragraph, the term
15 ‘chronically dependent individual’ means an individual
16 who—

17 “(I) is dependent on a daily basis on another
18 person who is living with the individual and is assist-
19 ing the individual without monetary compensation in
20 the performance of at least 2 of the activities of
21 daily living (described in clause (ii)), and

22 “(II) without such assistance could not perform
23 such activities of daily living.

24 “(ii) The ‘activities of daily living’, referred to in
25 clause (i), are the following:

1 “(I) Eating.

2 “(II) Bathing.

3 “(III) Dressing.

4 “(IV) Toileting.

5 “(V) Transferring in and out of a bed or in and
6 out of a chair.

7 “(E) The number of an individual’s benefit computa-
8 tion years as determined under this paragraph shall in no
9 case be less than 2.”.

10 **SEC. 3. EFFECTIVE DATE AND RELATED PROVISIONS.**

11 (a) IN GENERAL.—The amendments made by this
12 Act shall apply only with respect to computation base
13 years after 1987, and only with respect to benefits payable
14 for months after December 1998.

15 (b) NOTICE AND PROCEDURES.—

16 (1) 60-DAY GRACE PERIOD AFTER INITIAL
17 ISSUANCE OF FINAL REGULATIONS FOR CURRENT
18 BENEFICIARIES AND APPLICANTS.—The require-
19 ments of clause (iii) of section 215(b)(2)(B) of the
20 Social Security Act (as amended by this Act) shall
21 be treated as satisfied, in the case of a statement—

22 (A) which is filed by an individual who is,
23 as of the date of the first issuance in final form
24 of the regulations required under such clause, a
25 recipient of monthly benefits under section

1 202(a) or 223 of the Social Security Act, or an
2 applicant for such benefits, and

3 (B) with respect to which the requirements
4 of such clause would be met but for the date of
5 the filing of such statement,

6 if such statement is submitted to the Commissioner
7 of Social Security not later than 60 days after the
8 date of the first issuance in final form of such regu-
9 lations.

10 (2) NOTICE REQUIREMENTS.—

11 (A) NOTICE TO CURRENT BENEFICIARIES
12 AND APPLICANTS.—The Commissioner of Social
13 Security shall issue, not later than the date of
14 the first issuance in final form of the regula-
15 tions required under clause (iii) of section
16 215(b)(2)(B) of the Social Security Act (as
17 amended by this Act), regulations establishing
18 procedures to ensure that—

19 (i) persons who are, as of such date,
20 recipients of monthly benefits under sec-
21 tion 202(a) or 223 of the Social Security
22 Act, or applicants for such benefits, are
23 fully informed of the amendments made by
24 this Act; and

(ii) such persons are invited to comply, and given a reasonable opportunity to comply, with the requirements of section 215(b)(2)(B)(iii) of the Social Security Act (as amended by this Act), as provided in paragraph (1).

Upon receiving from a recipient described in clauses (i) and (ii) a written statement referred to in clause (iii) of section 215(b)(2)(B) of the Social Security Act (as amended by this Act) with respect to which the requirements of such clause are treated as satisfied, the Commissioner shall redetermine the amount of such benefits to the extent necessary to take into account the amendments made by this Act (and if such redetermination results in an increase in such amount the increase shall be effective as provided in subsection (a)).

(B) NOTICE TO FUTURE APPLICANTS.—

Such regulations required under subparagraph (A) shall also provide procedures to ensure that applicants for benefits under section 202(a) or 223 of the Social Security Act are given the opportunity, at the time of their application, to indicate and verify any additional years which

1 may be disregarded under section 215(b)(2)(B)
2 of the Social Security Act (as amended by this
3 Act).

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