

107TH CONGRESS
2D SESSION

S. 2700

To amend titles II and XVI of the Social Security Act to limit the amount of attorney assessments for representation of claimants and to extend the attorney fee payment system to claims under title XVI of that Act.

IN THE SENATE OF THE UNITED STATES

JUNE 28, 2002

Mrs. LINCOLN introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend titles II and XVI of the Social Security Act to limit the amount of attorney assessments for representation of claimants and to extend the attorney fee payment system to claims under title XVI of that 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 Attor-
5 ney Fee Payment System Improvement Act of 2002”.

6 **SEC. 2. CAP ON ATTORNEY ASSESSMENTS.**

7 (a) IN GENERAL.—Section 206(d)(2)(A) of the Social
8 Security Act (42 U.S.C. 406(d)(2)(A)) is amended by in-

1 serting “, except that the maximum amount of the assess-
 2 ment may not exceed \$75” after “subparagraph (B)”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
 4 this section shall apply with respect to fees for representa-
 5 tion of claimants which are first required to be certified
 6 or paid under section 206 of the Social Security Act (42
 7 U.S.C. 406) on or after the first day of the first month
 8 that begins after 120 days after the date of enactment
 9 of this Act.

10 **SEC. 3. EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM**
 11 **TO TITLE XVI CLAIMS.**

12 (a) **IN GENERAL.**—Section 1631(d)(2) of the Social
 13 Security Act (42 U.S.C. 1383(d)(2)) is amended—

14 (1) in subparagraph (A), in the matter pre-
 15 ceding clause (i)—

16 (A) by striking “section 206(a)” and in-
 17 serting “section 206”;

18 (B) by striking “(other than paragraph (4)
 19 thereof)” and inserting “(other than sub-
 20 sections (a)(4) and (d) thereof); and

21 (C) by striking “paragraph (2) thereof”
 22 and inserting “such section”;

23 (2) in subparagraph (A)(i), by striking “in sub-
 24 paragraphs (A)(ii)(I) and (C)(i),” and inserting “in

1 subparagraphs (A)(ii)(I) and (D)(i) of subsection
 2 (a)(2)”, and by striking “and” at the end;

3 (3) by striking subparagraph (A)(ii) and insert-
 4 ing the following:

5 “(ii) by substituting, in subsections (a)(2)(B)
 6 and (b)(1)(B)(i), the phrase ‘section 1631(a)(7)(A)
 7 or the requirements of due process of law’ for the
 8 phrase ‘subsection (g) or (h) of section 223’;

9 “(iii) by substituting, in subsection (a)(2)(C)(i),
 10 the phrase ‘under title II’ for the phrase ‘under title
 11 XVI’;

12 “(iv) by substituting, in subsection (b)(1)(A),
 13 the phrase ‘pay the amount of such fee’ for the
 14 phrase ‘certify the amount of such fee for payment’
 15 and by striking, in subsection (b)(1)(A), the phrase
 16 ‘or certified for payment’; and

17 “(v) by substituting, in subsection (b)(1)(B)(ii),
 18 the phrase ‘deemed to be such amounts as deter-
 19 mined before any applicable reduction under section
 20 1631(g), and reduced by the amount of any reduc-
 21 tion in benefits under this title or title II made pur-
 22 suant to section 1127(a)’ for the phrase ‘determined
 23 before any applicable reduction under section
 24 1127(a))’.”; and

1 (4) by striking subparagraph (B) and inserting
2 the following new subparagraphs:

3 “(B) Subject to subparagraph (C), if the claimant is
4 determined to be entitled to past-due benefits under this
5 title and the person representing the claimant is an attor-
6 ney, the Commissioner of Social Security shall pay out of
7 such past-due benefits to such attorney an amount equal
8 to the lesser of—

9 “(i) so much of the maximum fee as does not
10 exceed 25 percent of such past-due benefits (as de-
11 termined before any applicable reduction under sec-
12 tion 1631(g) and reduced by the amount of any re-
13 duction in benefits under this title or title II pursu-
14 ant to section 1127(a)), or

15 “(ii) the amount of past-due benefits available
16 after any applicable reductions under sections
17 1631(g) and 1127(a).

18 “(C)(i) Whenever a fee for services is required to be
19 paid to an attorney from a claimant’s past-due benefits
20 pursuant to subparagraph (B), the Commissioner shall
21 impose on the attorney an assessment calculated in ac-
22 cordance with clause (ii).

23 “(ii)(I) The amount of an assessment under clause
24 (i) shall be equal to the product obtained by multiplying
25 the amount of the representative’s fee that would be re-

1 quired to be paid by subparagraph (B) before the applica-
2 tion of this subparagraph, by the percentage specified in
3 subclause (II), except that the maximum amount of the
4 assessment may not exceed \$75.

5 “(II) The percentage specified in this subclause is
6 such percentage rate as the Commissioner determines is
7 necessary in order to achieve full recovery of the costs of
8 determining and approving fees to attorneys from the
9 past-due benefits of claimants, but not in excess of 6.3
10 percent.

11 “(iii) The Commissioner may collect the assessment
12 imposed on an attorney under clause (i) by offset from
13 the amount of the fee otherwise required by subparagraph
14 (B) to be paid to the attorney from a claimant’s past-due
15 benefits.

16 “(iv) An attorney subject to an assessment under
17 clause (i) may not, directly or indirectly, request or other-
18 wise obtain reimbursement for such assessment from the
19 claimant whose claim gave rise to the assessment.

20 “(v) Assessments on attorneys collected under this
21 subparagraph shall be deposited in the Treasury in a sepa-
22 rate fund created for this purpose.

23 “(vi) The assessments authorized under this subpara-
24 graph shall be collected and available for obligation only
25 to the extent and in the amount provided in advance in

1 appropriations Acts. Amounts so appropriated are author-
2 ized to remain available until expended, for administrative
3 expenses in carrying out this title and related laws.”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall apply with respect to fees for representa-
6 tion of claimants which are first required to be certified
7 or paid under section 1631(d)(2) of the Social Security
8 Act (42 U.S.C. 1383(d)(2)) on or after the first day of
9 the first month that begins after 270 days after the date
10 of enactment of this Act.

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