

108TH CONGRESS
2D SESSION

H. R. 5034

To amend title II of the Social Security Act to require waiver of the 5-month waiting period for entitlement to benefits based on disability in the case of a terminally ill beneficiary.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 8, 2004

Mr. THOMPSON of California 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 require waiver of the 5-month waiting period for entitlement to benefits based on disability in the case of a terminally ill beneficiary.

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 “Randy Barrett Act”.

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

4 (a) **DISABILITY INSURANCE BENEFITS.**—Section
5 223(a) of the Social Security Act (42 U.S.C. 423(a)) is
6 amended by adding at the end the following new para-
7 graph:

8 “(3)(A) In the case of any individual who is termi-
9 nally ill and is not entitled to disability insurance benefits
10 under this section for any month solely by reason of the
11 waiting period under clause (i) in the first sentence of
12 paragraph (1), the Commissioner of Social Security shall
13 waive the application of the waiting period, and, notwith-
14 standing clauses (i) and (ii) of the first sentence of para-
15 graph (1), such individual shall be entitled to disability
16 insurance benefits for each month, beginning with the first
17 month during all of which such individual is under a dis-
18 ability and in which such individual would become so enti-
19 tled to such insurance benefits under such sentence but
20 for such waiting period, and ending as provided in para-
21 graph (1).

22 “(B) For purposes of subparagraph (A), an indi-
23 vidual is considered to be ‘terminally ill’ if the individual
24 has a medical prognosis, certified by a physician, that the
25 individual’s life expectancy is 12 months or less.”.

1 (b) WIDOW’S INSURANCE BENEFITS BASED ON DIS-
2 ABILITY.—Section 202(e)(5) of such Act (42 U.S.C.
3 402(e)(5)) is amended by adding at the end the following
4 new subparagraph:

5 “(C)(i) In the case of any individual who is terminally
6 ill and is not entitled to widow’s insurance benefits under
7 this section for any month solely by reason of the waiting
8 period under paragraph (1)(F)(i), the Commissioner of
9 Social Security shall waive the application of the waiting
10 period, and, notwithstanding clauses (i) and (ii) of para-
11 graph (1)(F), such individual shall be entitled to widow’s
12 insurance benefits for each month, beginning with the first
13 month during all of which she is under a disability and
14 in which she would become so entitled to such insurance
15 benefits under paragraph (1) but for such waiting period,
16 and ending as provided in paragraph (1).

17 “(ii) For purposes of this subparagraph, an indi-
18 vidual is considered to be ‘terminally ill’ if the individual
19 has a medical prognosis, certified by a physician, that the
20 individual’s life expectancy is 12 months or less.”.

21 (c) WIDOWER’S INSURANCE BENEFITS BASED ON
22 DISABILITY.—Section 202(f)(6) of such Act (42 U.S.C.
23 402(f)(6)) is amended by adding at the end the following
24 new subparagraph:

1 “(C)(i) In the case of any individual who is terminally
 2 ill and is not entitled to widower’s insurance benefits
 3 under this section for any month solely by reason of the
 4 waiting period under paragraph (1)(F)(i), the Commis-
 5 sioner of Social Security shall waive the application of the
 6 waiting period, and, notwithstanding clauses (i) and (ii)
 7 of paragraph (1)(F), such individual shall be entitled to
 8 widower’s insurance benefits for each month, beginning
 9 with the first month during all of which he is under a
 10 disability and in which he would become so entitled to such
 11 insurance benefits under paragraph (1) but for such wait-
 12 ing period, and ending as provided in paragraph (1).

13 “(ii) For purposes of this subparagraph, an indi-
 14 vidual is considered to be ‘terminally ill’ if the individual
 15 has a medical prognosis, certified by a physician, that the
 16 individual’s life expectancy is 12 months or less.”.

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

- 20 (1) by inserting “(i)” after “(2)(A)”;
- 21 (2) by inserting “(I)” after “but only if”;
- 22 (3) by inserting “(II)” after “duration or”; and
- 23 (4) by adding at the end the following new
- 24 clause:

1 “(ii) In any case in which an individual is terminally
2 ill and a month is not included within a period of disability
3 of such individual solely by reason of the 5-month duration
4 requirement under clause (i)(I), the Commissioner of So-
5 cial Security shall waive the application of such require-
6 ment, and, notwithstanding clause (i)(I), such month shall
7 be included in a period of disability. For purposes of this
8 subparagraph, an individual is considered to be ‘terminally
9 ill’ if the individual has a medical prognosis, certified by
10 a physician, that the individual’s life expectancy is 12
11 months or less.”.

12 **SEC. 3. EFFECTIVE DATES.**

13 The amendments made by subsection (a) of section
14 2 of this Act shall apply only with respect to benefits
15 under section 223 of the Social Security Act, or under sec-
16 tion 202 of such Act on the basis of the wages and self-
17 employment income of an individual entitled to benefits
18 under such section 223, for months beginning after the
19 date of the enactment of this Act. The amendments made
20 by subsections (b) and (c) of section 2 of this Act shall
21 apply only with respect to benefits based on disability
22 under subsection (e) or (f) of section 202 of the Social
23 Security Act for months after the date of the enactment
24 of this Act. The amendments made by subsection (d) of
25 section 2 of this Act shall apply only with respect to appli-

1 cations for disability determinations filed under title II of
2 the Social Security Act after the date of the enactment
3 of this Act.

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