

111TH CONGRESS  
1ST SESSION

# H. R. 2881

To amend titles II and XVIII of the Social Security Act to waive certain waiting periods for Social Security disability and Medicare benefits in the case of a terminally ill, disabled individual.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 15, 2009

Mr. ROGERS of Alabama (for himself, Mr. BACHUS, Mr. ADERHOLT, Mr. BONNER, Mr. GRIFFITH, Mr. BRIGHT, Mr. DAVIS of Alabama, Mr. GERLACH, Mrs. CHRISTENSEN, Mr. CARNEY, Mr. SMITH of New Jersey, and Mr. LANGEVIN) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend titles II and XVIII of the Social Security Act to waive certain waiting periods for Social Security disability and Medicare benefits in the case of a terminally ill, disabled individual.

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 “Kenny Callahan Act”.

1 **SEC. 2. WAIVER OF SOCIAL SECURITY DISABILITY WAITING**  
2 **PERIOD FOR BENEFITS BASED ON DIS-**  
3 **ABILITY IN CASES OF TERMINALLY ILL BENE-**  
4 **FICIARIES.**

5 (a) DISABILITY INSURANCE BENEFITS.—Section  
6 223(a) of the Social Security Act (42 U.S.C. 423(a)) is  
7 amended—

8 (1) in paragraph (1), by inserting in the matter  
9 following subparagraph (E) “the individual meets  
10 the requirements of paragraph (3) or” after “but  
11 only if”; and

12 (2) by adding at the end the following new  
13 paragraph:

14 “(3)(A) For purposes of paragraph (1), an individual  
15 meets the requirements of this paragraph if—

16 “(i) the impairment underlying a finding that  
17 the individual is under a disability results in his  
18 death prior to the end of the applicable period (as  
19 defined in subparagraph (B)), or

20 “(ii) in any case not described in clause (i)—

21 “(I) in the case in which the finding that  
22 the individual is under a disability is made be-  
23 fore the end of the applicable period, the Com-  
24 missioner determines that, at the time such  
25 finding is made, the impairment underlying

1           such finding is expected to result in the individ-  
2           ual’s death prior to the end of such period, or

3           “(II) in the case in which such finding is  
4           made after the end of the applicable period, the  
5           Commissioner determines that, at any time dur-  
6           ing such period, such impairment was expected  
7           to result in the individual’s death prior to the  
8           end of such period.

9           “(B) For purposes of subparagraph (A), the term  
10          ‘applicable period’ means, in connection with any impair-  
11          ment by reason of which an individual is under a dis-  
12          ability, the period of six consecutive calendar months com-  
13          mencing with the first calendar month commencing while  
14          such individual is under such disability.”.

15          (b) WIDOW’S INSURANCE BENEFITS BASED ON DIS-  
16          ABILITY.—Section 202(e) of such Act (42 U.S.C. 402(e))  
17          is amended—

18                 (1) in paragraph (1)(F)(ii), by inserting “she  
19                 meets the requirements of paragraph (5)(C) or”  
20                 after “but only if”; and

21                 (2) in paragraph (5), by adding at the end the  
22                 following new subparagraph:

23                 “(C)(i) For purposes of paragraph (1)(F)(ii), an indi-  
24                 vidual meets the requirements of this subparagraph if—

1           “(I) the impairment underlying a finding that  
2           she is under a disability results in her death prior  
3           to the end of the applicable period (as defined in  
4           clause (ii)), or

5           “(II) in any case not described in subclause  
6           (I)—

7                   “(aa) in the case in which the finding that  
8                   she is under a disability is made before the end  
9                   of the applicable period, the Commissioner de-  
10                  termines that, at the time such finding is made,  
11                  the impairment underlying such finding is ex-  
12                  pected to result in her death prior to the end  
13                  of such period, or

14                   “(bb) in the case in which such finding is  
15                   made after the end of the applicable period, the  
16                   Commissioner determines that, at any time dur-  
17                   ing such period, such impairment was expected  
18                   to result in her death prior to the end of such  
19                   period.

20           “(ii) For purposes of clause (i), the term ‘applicable  
21           period’ means, in connection with any impairment by rea-  
22           son of which an individual is under a disability, the period  
23           of six consecutive calendar months commencing with the  
24           first calendar month commencing while such individual is  
25           under such disability.”.

1 (c) WIDOWER'S INSURANCE BENEFITS BASED ON  
2 DISABILITY.—Section 202(f) of such Act (42 U.S.C.  
3 402(f)) is amended—

4 (1) in paragraph (1)(F)(ii), by inserting “he  
5 meets the requirements of paragraph (5)(C) or”  
6 after “but only if”; and

7 (2) in paragraph (5), by adding at the end the  
8 following new subparagraph:

9 “(C)(i) For purposes of paragraph (1)(F)(ii), an indi-  
10 vidual meets the requirements of this subparagraph if—

11 “(I) the impairment underlying a finding that  
12 he is under a disability results in his death prior to  
13 the end of the applicable period (as defined in clause  
14 (ii)), or

15 “(II) in any case not described in subclause  
16 (I)—

17 “(aa) in the case in which the finding that  
18 he is under a disability is made before the end  
19 of the applicable period, the Commissioner de-  
20 termines that, at the time such finding is made,  
21 the impairment underlying such finding is ex-  
22 pected to result in his death prior to the end of  
23 such period, or

24 “(bb) in the case in which such finding is  
25 made after the end of the applicable period, the

1           Commissioner determines that, at any time dur-  
2           ing such period, such impairment was expected  
3           to result in his death prior to the end of such  
4           period.

5           “(ii) For purposes of clause (i), the term ‘applicable  
6   period’ means, in connection with any impairment by rea-  
7   son of which an individual is under a disability, the period  
8   of six consecutive calendar months commencing with the  
9   first calendar month commencing while such individual is  
10   under such disability.”.

11          (d) COMMENCEMENT OF PERIOD OF DISABILITY.—  
12   Section 216(i)(2)(A) of such Act (42 U.S.C. (i)(2)(A)) is  
13   amended—

14           (1) by inserting “(i)” after “(2)(A)”;

15           (2) by inserting “(I) the individual meets the  
16   requirements of clause (ii), or (II)” after “but only  
17   if”; and

18           (3) by adding at the end the following new  
19   clauses:

20           “(ii) For purposes of clause (i)(I), an individual  
21   meets the requirements of this clause if—

22           “(I) the impairment underlying a finding that  
23   such individual is under a disability (as defined in  
24   paragraph (1)) results in such individual’s death

1 prior to the end of the applicable period (as defined  
2 in clause (iii)), or

3 “(II) in any case not described in subclause  
4 (I)—

5 “(aa) in the case in which the finding that  
6 the individual is under a disability is made be-  
7 fore the end of the applicable period, the Com-  
8 missioner determines that, at the time such  
9 finding is made, the impairment underlying  
10 such finding is expected to result in the individ-  
11 ual’s death prior to the end of such period, or

12 “(bb) in the case in which such finding is  
13 made after the end of the applicable period, the  
14 Commissioner determines that, at any time dur-  
15 ing such period, such impairment was expected  
16 to result in the individual’s death prior to the  
17 end of such period.

18 “(iii) For purposes of clause (ii), the term ‘applicable  
19 period’ means, in connection with any impairment by rea-  
20 son of which an individual is under a disability, the period  
21 of six consecutive calendar months commencing with the  
22 first calendar month commencing while such individual is  
23 under such disability.”.

1 **SEC. 3. WAIVER OF MEDICARE DISABILITY WAITING PE-**  
 2 **RIOD FOR BENEFITS BASED ON DISABILITY**  
 3 **IN CASES OF TERMINALLY ILL BENE-**  
 4 **FICIARIES.**

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

7 (1) by redesignating subsection (j) as sub-  
 8 section (k); and

9 (2) by inserting after subsection (i) the fol-  
 10 lowing new subsection:

11 “(j)(1) With respect to an individual who meets the  
 12 requirements of paragraph (2) and who would be entitled  
 13 to benefits under subsection (b) but for the 24-month  
 14 waiting period under subsection (b)(2), the following spe-  
 15 cial rules apply:

16 “(A) Subsection (b) shall be applied as if there  
 17 were no requirement for any entitlement to benefits,  
 18 or status, for a period longer than one month.

19 “(B) The entitlement under such subsection  
 20 shall begin with the first month (rather than twenty-  
 21 fifth month) of entitlement or status.

22 “(C) Subsection (f) shall not be applied.

23 “(2)(A) Subject to subparagraph (C), an individual  
 24 meets the requirements of this paragraph if—

25 “(i) the impairment underlying a finding under  
 26 this title that the individual is under a disability re-



1       sults in the individual’s death before the end of the  
2       applicable period (as defined in subparagraph (B));  
3       or

4           “(ii) in the case where such finding is made—  
5               “(I) before the end of the applicable pe-  
6               riod, the Commissioner determines that, at the  
7               time such finding is made, such impairment is  
8               expected to result in the individual’s death be-  
9               fore the end of such period; or

10               “(II) after the end of such period, the  
11               Commissioner determines that, at any time dur-  
12               ing such period, such impairment was expected  
13               to result in the individual’s death before the  
14               end of such period.

15       “(B) For purposes of subparagraph (A), the term  
16       ‘applicable period’ means, in connection with any impair-  
17       ment by reason of which an individual is under a dis-  
18       ability, the period of 12 consecutive calendar months com-  
19       mencing with the first calendar month commencing while  
20       such individual is under such disability.

21       “(C) An individual described in subparagraph (A)  
22       shall not continue to be treated as meeting the require-  
23       ments of this paragraph after the end of the 12-month  
24       period described in subparagraph (B) unless, before the  
25       end of such period, the individual requests an extension

1 of such treatment and the Commissioner determines that  
2 the impairment involved is expected to result in the indi-  
3 vidual's death before the end of the 12-consecutive-month  
4 period immediately following the applicable period.”.

5 (b) CONFORMING AMENDMENT.—Section 1837 of  
6 such Act (42 U.S.C. 1395p) is amended by adding at the  
7 end the following new subsection:

8 “(l) In applying this section in the case of an indi-  
9 vidual who is entitled to benefits under part A pursuant  
10 to the operation of section 226(j), the following special  
11 rules apply:

12 “(1) The initial enrollment period under sub-  
13 section (d) shall begin on the first day of the first  
14 month in which the individual satisfies the require-  
15 ment of section 1836(1).

16 “(2) In applying subsection (g)(1), the initial  
17 enrollment period shall begin on the first day of the  
18 first month of entitlement to disability insurance  
19 benefits referred to in such subsection.”.

20 **SEC. 4. EFFECTIVE DATE.**

21 The amendments made by this Act shall apply with  
22 respect to applications filed on or after January 1, 2010.

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