

111TH CONGRESS
1ST SESSION

H. R. 4054

To amend titles II and XVI of the Social Security Act to provide for treatment of disability rated and certified as total by the Secretary of Veterans Affairs as disability for purposes of such titles.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 6, 2009

Mr. SARBANES (for himself, Mr. COURTNEY, Mr. LOEBSACK, Mr. CUMMINGS, Mr. MCGOVERN, Mr. PETERSON, Ms. KILPATRICK of Michigan, Ms. LINDA T. SÁNCHEZ of California, Mr. PLATTS, Mr. MCINTYRE, Mr. KRATOVIL, Mr. BISHOP of New York, Mr. RUPPERSBERGER, Mr. NYE, Ms. BERKLEY, Mr. COHEN, Mr. SCHIFF, Mr. YOUNG of Florida, Ms. SCHAKOWSKY, Ms. SUTTON, Mr. BLUMENAUER, Ms. BORDALLO, Mr. JOHNSON of Georgia, Mr. KLEIN of Florida, Mr. FRANK of Massachusetts, Mr. RAHALL, Mr. KAGEN, Ms. SHEA-PORTER, Mr. MCCOTTER, Mr. WALZ, Mr. WILSON of Ohio, Mr. GEORGE MILLER of California, Mr. ARCURI, Mr. GORDON of Tennessee, Mr. HASTINGS of Washington, Mrs. CHRISTENSEN, Mr. SHULER, Mr. GRIJALVA, Mr. KIND, Mr. MCNERNEY, Mr. VAN HOLLEN, Mr. ELLISON, Mr. HALL of New York, Mr. BARTLETT, Mr. SCOTT of Virginia, Mr. PASCRELL, Mr. WELCH, Mr. PERLMUTTER, Mr. CARSON of Indiana, Mr. WEINER, and Mr. YARMUTH) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend titles II and XVI of the Social Security Act to provide for treatment of disability rated and certified as total by the Secretary of Veterans Affairs as disability for purposes of such titles.

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 “Benefit Rating Accel-
 5 eration for Veteran Entitlements Act of 2009”.

6 **SEC. 2. TREATMENT OF SERVICE-CONNECTED DISABILITY**
 7 **RATED AND CERTIFIED AS TOTAL BY THE**
 8 **SECRETARY OF VETERANS AFFAIRS AS DIS-**
 9 **ABILITY FOR PURPOSES OF TITLE II OF THE**
 10 **SOCIAL SECURITY ACT.**

11 (a) DISABILITY FOR PURPOSES OF ENTITLEMENT TO
 12 DISABILITY INSURANCE BENEFITS AND OTHER BENE-
 13 FITS BASED ON DISABILITY.—

14 (1) IN GENERAL.—Section 223(d) of the Social
 15 Security Act (42 U.S.C. 423(d)) is amended by add-
 16 ing at the end the following new paragraph:

17 “(7)(A) Notwithstanding the preceding provisions of
 18 this subsection, any individual who has a service-connected
 19 disability rated by the Secretary of Veterans Affairs as
 20 total for purposes of benefits under chapter 11 of title 38,
 21 United States Code, and presents written certification of
 22 such rating determination to the Commissioner of Social
 23 Security shall be deemed to be under a disability (within
 24 the meaning of the preceding paragraphs of this sub-
 25 section) for each month—

1 “(i) beginning with the month during which
2 such certification is presented to the Commissioner,
3 and

4 “(ii) ending with the earlier of—

5 “(I) any month during which certification
6 is made to the Commissioner pursuant to sub-
7 paragraph (B) that such service-connected dis-
8 ability has ceased, or

9 “(II) any month during which the Commis-
10 sioner determines, subject to subparagraph (C),
11 that such individual is able to engage in sub-
12 stantial gainful activity.

13 “(B) In any case in which the Secretary of Veterans
14 Affairs determines that an individual who has been deter-
15 mined by such Secretary to be totally disabled for pur-
16 poses of benefits under chapter 11 of title 38, United
17 States Code, and with respect to whom a certification has
18 been made to the Commissioner pursuant to subparagraph
19 (A) that such individual has ceased to be so disabled, such
20 Secretary shall promptly certify to the Commissioner such
21 Secretary’s determination that such individual has ceased
22 to be so disabled.

23 “(C) Any determination by the Commissioner under
24 subparagraph (A)(ii)(II) shall be made on the basis of evi-

1 dence of earnings, without consideration of any evidence
 2 of medical recovery.

3 “(D) Nothing in this paragraph shall be construed
 4 to preclude a determination under this title that an indi-
 5 vidual who is not deemed to be under a disability under
 6 subparagraph (A) is under a disability (within the mean-
 7 ing of the preceding paragraphs of this subsection).

8 “(E) The Commissioner of Social Security and the
 9 Secretary of Veterans Affairs shall enter into such ar-
 10 rangements as are necessary and appropriate for purposes
 11 of carrying out the provisions of this paragraph.”.

12 (2) OTHER BENEFITS BASED ON DISABILITY.—

13 (A) CHILD’S INSURANCE BENEFITS.—Sec-
 14 tion 202(d)(1) of such Act (42 U.S.C.
 15 402(d)(1)) is amended by adding at the end the
 16 following new sentence: “Under regulations of
 17 the Commissioner of Social Security, the provi-
 18 sions of section 223(d)(7) shall apply with re-
 19 spect to benefits under this section (and deter-
 20 minations of disability made for purposes of de-
 21 terminations of entitlement to such benefits) in
 22 the same manner and to the same extent as
 23 such provisions apply with respect to benefits
 24 under section 223 (and determinations of dis-

1 ability made for purposes of determinations of
2 entitlement to benefits under section 223).”.

3 (B) WIDOW’S INSURANCE BENEFITS.—

4 Section 202(e)(1) of such Act (42 U.S.C.
5 402(e)(1)) is amended by adding at the end the
6 following new sentence: “Under regulations of
7 the Commissioner of Social Security, the provi-
8 sions of section 223(d)(7) shall apply with re-
9 spect to benefits under this section (and deter-
10 minations of disability made for purposes of de-
11 terminations of entitlement to such benefits) in
12 the same manner and to the same extent as
13 such provisions apply with respect to benefits
14 under section 223 (and determinations of dis-
15 ability made for purposes of determinations of
16 entitlement to benefits under section 223).”.

17 (C) WIDOWER’S INSURANCE BENEFITS.—

18 Section 202(f)(1) of such Act (42 U.S.C.
19 402(f)(1)) is amended by adding at the end the
20 following new sentence: “Under regulations of
21 the Commissioner of Social Security, the provi-
22 sions of section 223(d)(7) shall apply with re-
23 spect to benefits under this section (and deter-
24 minations of disability made for purposes of de-
25 terminations of entitlement to such benefits) in

1 the same manner and to the same extent as
2 such provisions apply with respect to benefits
3 under section 223 (and determinations of dis-
4 ability made for purposes of determinations of
5 entitlement to benefits under section 223).”.

6 (b) DETERMINATIONS OF PERIODS OF DIS-
7 ABILITY.—Section 216(i) of such Act (42 U.S.C. 416(i))
8 is amended by adding at the end the following new para-
9 graph:

10 “(3)(A) Notwithstanding paragraphs (1) and (2), any
11 individual who has a service-connected disability rated by
12 the Secretary of Veterans Affairs as total for purposes of
13 benefits under chapter 11 of title 38, United States Code,
14 and presents written certification of such rating deter-
15 mination to the Commissioner of Social Security shall be
16 deemed to be under a disability (within the meaning of
17 paragraph (1)) for each month—

18 “(i) beginning with the month during which
19 such certification is presented to the Commissioner,
20 and

21 “(ii) ending with the earlier of—

22 “(I) any month during which certification
23 is made to the Commissioner pursuant to sub-
24 paragraph (B) that such service-connected dis-
25 ability has ceased, or

1 “(II) any month during which the Commis-
2 sioner determines, subject to subparagraph (C),
3 that such individual is able to engage in sub-
4 stantial gainful activity.

5 “(B) In any case in which the Secretary of Veterans
6 Affairs determines that an individual who has been deter-
7 mined by such Secretary to be totally disabled for pur-
8 poses of benefits under chapter 11 of title 38, United
9 States Code, and with respect to whom a certification has
10 been made to the Commissioner pursuant to subparagraph
11 (A) that such individual has ceased to be so disabled, such
12 Secretary shall promptly certify to the Commissioner such
13 Secretary’s determination that such individual has ceased
14 to be so disabled.

15 “(C) Any determination by the Commissioner under
16 subparagraph (A)(ii)(II) shall be made on the basis of evi-
17 dence of earnings, without consideration of any evidence
18 of medical recovery.

19 “(D) Nothing in this paragraph shall be construed
20 to preclude a determination under this title that an indi-
21 vidual who is not deemed to be under a disability under
22 subparagraph (A) is under a disability (within the mean-
23 ing of paragraph (1)).

24 “(E) The Commissioner of Social Security and the
25 Secretary of Veterans Affairs shall enter into such ar-

1 rangements as are necessary and appropriate for purposes
 2 of carrying out the provisions of this paragraph.”.

3 **SEC. 3. TREATMENT OF DISABILITY RATED AND CERTIFIED**
 4 **AS TOTAL BY THE SECRETARY OF VETERANS**
 5 **AFFAIRS AS DISABILITY FOR PURPOSES OF**
 6 **TITLE XVI OF THE SOCIAL SECURITY ACT.**

7 Section 1614(a)(3) of the Social Security Act (42
 8 U.S.C. 1382c(a)(3)) is amended by adding at the end the
 9 following:

10 “(K) In making determinations with respect to dis-
 11 ability under this title, the provisions of section 223(d)(7)
 12 shall apply in the same manner as they apply to deter-
 13 minations of disability under title II.”.

14 **SEC. 4. EFFECTIVE DATE.**

15 The amendments made by this Act shall apply with
 16 respect to determinations of disability in connection with
 17 applications for benefits or periods of disability filed or
 18 pending on or after the date of the enactment of this Act.

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