

114TH CONGRESS
2D SESSION

H. R. 5919

To amend title II of the Social Security Act to improve the process by which the Social Security Administration makes disability determinations and awards disability benefits, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 18, 2016

Mr. SCHWEIKERT 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 improve the process by which the Social Security Administration makes disability determinations and awards disability benefits, and for other purposes.

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 “Preserving and Re-
5 forming SSDI (PAR–SSDI) Act of 2016”.

1 **SEC. 2. CONSIDERATION OF VOCATIONAL FACTORS IN DIS-**
2 **ABILITY DETERMINATIONS.**

3 (a) LANGUAGE PROFICIENCY.—Section 223(d)(2) of
4 the Social Security Act (42 U.S.C. 423(d)(2)) is amended
5 by adding at the end the following:

6 “(D) In determining whether an individual is
7 under a disability, the Commissioner shall make
8 such determination without regard to the individ-
9 ual’s ability to communicate in English.”.

10 (b) QUARTERS OF COVERAGE REQUIREMENT.—Sec-
11 tion 223(d)(2) of the Social Security Act (42 U.S.C.
12 423(d)(2)), as amended by subsection (a), is further
13 amended by adding at the end the following:

14 “(E) In determining whether an individual is
15 under a disability for a month, the Commissioner
16 may not consider the individual’s vocational back-
17 ground unless the individual had not less than 16
18 quarters of coverage during the 24-quarter period
19 ending with the quarter in which such month oc-
20 curs.”.

21 (c) PERIODIC UPDATE OF VOCATIONAL AND EDU-
22 CATIONAL FACTORS.—Not later than 5 years after the
23 date of the enactment of this Act and not later than the
24 end of every subsequent 5-year period, the Commissioner
25 of Social Security shall prepare and implement a complete
26 update of the vocational and educational factors consid-

1 ered in making disability determinations under title II of
2 the Social Security Act.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply with respect to applications for dis-
5 ability insurance benefits filed on or after the date of the
6 enactment of this Act.

7 **SEC. 3. DISQUALIFICATION ON RECEIPT OF DISABILITY IN-**
8 **SURANCE BENEFITS IN A MONTH FOR WHICH**
9 **UNEMPLOYMENT COMPENSATION IS RE-**
10 **CEIVED.**

11 (a) IN GENERAL.—Section 223(d)(4) of the Social
12 Security Act (42 U.S.C. 423(d)(4)) is amended by adding
13 at the end the following:

14 “(C)(i) If for any week in whole or in part within
15 a month an individual is paid or determined to be eligible
16 for unemployment compensation, such individual shall be
17 deemed to have engaged in substantial gainful activity for
18 such month.

19 “(ii) For purposes of clause (i), the term ‘un-
20 employment compensation’ means—

21 “(I) ‘regular compensation’, ‘extended
22 compensation’, and ‘additional compensation’
23 (as such terms are defined by section 205 of
24 the Federal-State Extended Unemployment
25 Compensation Act (26 U.S.C. 3304 note)); and

1 “(II) trade adjustment assistance under
 2 title II of the Trade Act of 1974 (19 U.S.C.
 3 2251 et seq.).”.

4 (b) TRIAL WORK PERIOD.—Section 222(c) of the So-
 5 cial Security Act (42 U.S.C. 422(c)) is amended by adding
 6 at the end the following:

7 “(6)(A) For purposes of this subsection, an individual
 8 shall be deemed to have rendered services in a month if
 9 the individual is entitled to unemployment compensation
 10 for such month.

11 “(B) For purposes of subparagraph (A), the
 12 term ‘unemployment compensation’ means—

13 “(i) ‘regular compensation’, ‘extended com-
 14 pensation’, and ‘additional compensation’ (as
 15 such terms are defined by section 205 of the
 16 Federal-State Extended Unemployment Com-
 17 pensation Act (26 U.S.C. 3304 note)); and

18 “(ii) trade adjustment assistance under
 19 title II of the Trade Act of 1974 (19 U.S.C.
 20 2251 et seq.).”.

21 (c) DATA MATCHING.—The Commissioner of Social
 22 Security shall implement the amendments made by this
 23 section using appropriate electronic data.

24 (d) EFFECTIVE DATE.—The amendments made by
 25 this subsection shall apply with respect to individuals who

1 initially apply for disability insurance benefits on or after
2 January 1, 2017.

3 **SEC. 4. ELIGIBILITY FOR MEDICARE.**

4 (a) IN GENERAL.—Section 226(b)(2) of the Social
5 Security Act (42 U.S.C. 426(b)) is amended—

6 (1) in subparagraph (A), by striking “24 cal-
7 endar months” and inserting “60 calendar months”;

8 (2) in subparagraph (B), by striking “24
9 months” and inserting “60 months”;

10 (3) in subparagraph (C)(ii), by striking “24
11 months” and inserting “60 months”; and

12 (4) in the matter following subparagraph
13 (C)(ii)(II)—

14 (A) by striking “twenty-fifth month” be-
15 fore “of his entitlement or status” and inserting
16 “sixty-first month”; and

17 (B) by striking “‘twenty-fifth month of his
18 entitlement’ refers to the first month after the
19 twenty-fourth month” and inserting “‘sixty-
20 first month of his entitlement’ refers to the first
21 month after the sixtieth month”.

22 (b) CONFORMING AMENDMENTS.—Section 226 of
23 such Act (42 U.S.C. 426), as amended by subsection (a),
24 is further amended—

1 (1) in subsection (e)(1)(B), by striking “24
2 months” and inserting “60 months”; and

3 (2) in subsection (f), by striking “24 months”
4 and inserting “60 months”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply with respect to applications for dis-
7 ability insurance benefits filed on or after the date of the
8 enactment of this Act.

9 **SEC. 5. INCLUSION OF UNEARNED INCOME IN DETERMINA-**
10 **TION OF SUBSTANTIAL GAINFUL ACTIVITY.**

11 (a) IN GENERAL.—Section 223(d)(4) of the Social
12 Security Act (42 U.S.C. 423(d)(4)), as amended by sec-
13 tion 3(b), is further amended by adding at the end the
14 following:

15 “(D)(i) If the amount of unearned income (as defined
16 in section 1612) of an individual for a month is equal to
17 or greater than the monthly income limit for such month,
18 the individual shall be deemed to have engaged in substan-
19 tial gainful activity for such month.

20 “(ii) For purposes of this subparagraph, the monthly
21 income limit is the amount of earnings derived from serv-
22 ices, prescribed by the Commissioner under regulations
23 issued pursuant to subparagraph (A), sufficient to dem-
24 onstrate an individual’s ability to engage in substantial
25 gainful activity for a month.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply with respect to monthly insur-
3 ance benefits paid for months beginning after the date
4 that is 1 year after the date of the enactment of this Act.

5 **SEC. 6. MEDICAL EVIDENCE IN DISABILITY DETERMINA-**
6 **TIONS.**

7 (a) EXCLUSION OF MEDICAL EVIDENCE THAT IS
8 NOT SUBMITTED IN ITS ENTIRETY OR FURNISHED BY A
9 LICENSED PRACTITIONER.—Section 223(d)(5) of the So-
10 cial Security Act (42 U.S.C. 423(d)(5)) is amended—

11 (1) in subparagraph (B), by striking “In” and
12 inserting “Subject to subparagraphs (C) and (D),
13 in”; and

14 (2) by adding at the end the following new sub-
15 paragraphs:

16 “(C)(i) An individual and, if applicable, such individ-
17 ual’s representative shall submit, in its entirety and with-
18 out redaction, all relevant medical evidence known to the
19 individual or the representative to the Commissioner of
20 Social Security.

21 “(ii) In the case of a hearing before an adminis-
22 trative law judge to determine if an individual is
23 under a disability (as defined in paragraph (1)), the
24 Commissioner of Social Security shall not consider
25 any piece of medical evidence furnished by an indi-

vidual or such individual's representative unless such individual and, if applicable, such individual's representative, certifies at the hearing that all relevant medical evidence has been submitted in its entirety and without redaction.

“(iii) For purposes of this subparagraph, the term ‘relevant medical evidence’ means any medical evidence relating to the individual's claimed physical or mental impairments that the Commissioner of Social Security should consider to determine whether the individual is under a disability, regardless of whether such evidence is favorable or unfavorable to the individual's case, but shall not include any oral or written communication or other document exchanged between the individual and such individual's attorney representative that are subject to attorney-client privilege or work product doctrine, unless the individual voluntarily discloses such communication to the Commissioner. Neither the attorney-client privilege nor the work product doctrine shall prevent from disclosure medical evidence, medical source opinions, or any other factual matter that the Commissioner may consider in determining whether or not the individual is entitled to benefits.

1 “(iv) Any individual or representative who
2 knowingly violates this subparagraph shall be guilty
3 of making a false statement or representation of ma-
4 terial fact, shall be subject to civil and criminal pen-
5 alties under sections 208 and 1129, and, in the case
6 of a representative, shall be suspended or disquali-
7 fied from appearing before the Social Security Ad-
8 ministration.

9 “(D) The Commissioner of Social Security shall not
10 consider any evidence furnished by a physician or health
11 care practitioner who is not licensed or has been sanc-
12 tioned.”.

13 (b) HEALTH CARE PROVIDERS SUPPLYING CON-
14 SULTATIVE EXAMS.—

15 (1) IN GENERAL.—Beginning 1 year after the
16 date of enactment of this Act, in determining wheth-
17 er an individual applying for disability insurance
18 benefits under title II of the Social Security Act is
19 disabled, the Commissioner of Social Security shall
20 not consider medical evidence resulting from a con-
21 sultative exam with a health care provider conducted
22 for the purpose of supporting the individual’s appli-
23 cation unless the evidence is accompanied by a Med-
24 ical Consultant Acknowledgment Form signed by the
25 health care provider who conducted the exam.

1 (2) MEDICAL CONSULTANT ACKNOWLEDGMENT
2 FORM.—

3 (A) DEFINITION.—As used in this sub-
4 section, the term “Medical Consultant Acknowl-
5 edgment Form” means a form published by the
6 Commissioner of Social Security that meets the
7 requirements of subparagraph (B).

8 (B) REQUIREMENTS.—The Commissioner
9 of Social Security shall develop the Medical
10 Consultant Acknowledgment Form and make it
11 available to the public not later than 6 months
12 after the date of enactment of this Act. The
13 contents of the Medical Consultant Acknowledg-
14 ment Form shall include—

15 (i) information on how medical evi-
16 dence is used in disability determinations;

17 (ii) instructions on completing a resid-
18 ual functional capacity form;

19 (iii) information on the legal and eth-
20 ical obligations of a health care provider
21 who supplies medical evidence for use in a
22 disability determination, including any civil
23 or criminal penalties that may be imposed
24 on a health care provider who supplies

1 medical evidence for use in a disability de-
2 termination; and

3 (iv) a statement that the signatory
4 has read and understands the contents of
5 the form.

6 (3) PENALTIES FOR FRAUD.—In addition to
7 any other penalties that may be prescribed by law,
8 any individual who forges a signature on a Medical
9 Consultant Acknowledgment Form submitted to the
10 Commissioner of Social Security shall be guilty of
11 making a false statement or representation of mate-
12 rial fact, and upon conviction shall be subject to civil
13 and criminal penalties under sections 208 and 1129
14 of the Social Security Act and, in the case of a rep-
15 resentative, shall be suspended or disqualified from
16 appearing before the Social Security Administration.

17 (c) EFFECTIVE DATE.—The amendments made by
18 subsection (a) shall apply with respect to applications for
19 disability insurance benefits filed on or after the date of
20 the enactment of this Act.

21 **SEC. 7. CHANGE IN INDEX USED TO CALCULATE SOCIAL SE-**
22 **CURITY COST-OF-LIVING ADJUSTMENTS.**

23 (a) IN GENERAL.—Section 215(i)(1) of the Social Se-
24 curity Act (42 U.S.C. 415(i)(1)) is amended—

1 (1) in subparagraph (G), by striking the period
2 at the end and inserting “; and”; and

3 (2) by adding at the end the following new sub-
4 paragraph:

5 “(H) the term ‘Consumer Price Index’ means
6 the Chained Consumer Price Index for All Urban
7 Consumers (C–CPI–U, as published in its initial
8 version by the Bureau of Labor Statistics of the De-
9 partment of Labor).”.

10 (b) APPLICATION TO PRE-1979 LAW.—

11 (1) IN GENERAL.—Section 215(i)(1) of the So-
12 cial Security Act as in effect in December 1978, and
13 as applied in certain cases under the provisions of
14 such Act as in effect after December 1978, is
15 amended—

16 (A) in subparagraph (C), by striking the
17 period at the end and inserting “; and”; and

18 (B) by adding at the end the following new
19 subparagraph:

20 “(D) the term ‘Consumer Price Index’ means
21 the Chained Consumer Price Index for All Urban
22 Consumers (C–CPI–U, as published in its initial
23 version by the Bureau of Labor Statistics of the De-
24 partment of Labor).”.

1 (2) CONFORMING CHANGE.—Section 215(i)(4)
2 of the Social Security Act (42 U.S.C. 415(i)(4)) is
3 amended by inserting “and by section 231 of the
4 Preserving and Reforming SSDI (PAR–SSDI) Act
5 of 2016” after “1986”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply with respect to adjustments effec-
8 tive with or after the first December that begins at least
9 3 years after the date of the enactment of this Act.

10 **SEC. 8. THIRD-PARTY INCOME VERIFICATION.**

11 (a) IN GENERAL.—Section 223(i) of the Social Secu-
12 rity Act (42 U.S.C. 423(i)) is amended—

13 (1) by redesignating paragraph (5) as para-
14 graph (6); and

15 (2) by inserting after paragraph (4) the fol-
16 lowing:

17 “(5)(A) In any case in which the Commissioner of
18 Social Security initiates a review under this subsection of
19 the case of an individual who has been determined to be
20 under a disability, such review shall include an inde-
21 pendent estimate by a qualified social security income
22 verification contractor of such individual’s monthly income
23 at the time of such review.

24 “(B) Upon initiating a review of an individual under
25 this subsection, the Commissioner of Social Security shall

1 provide such individual's name, address, and social secu-
2 rity account number to a qualified social security income
3 verification contractor for purposes of obtaining the inde-
4 pendent estimate described in subparagraph (A).

5 “(C)(i) Not later than 60 days after the date of the
6 enactment of this paragraph, the Commissioner of Social
7 Security shall enter into one or more qualified income
8 verification contracts.

9 “(ii) For purposes of this paragraph, the term ‘quali-
10 fied social security income verification contract’ means any
11 contract which is for the services of any person (other than
12 an officer or employee of the Social Security Administra-
13 tion)—

14 “(I) to provide an estimate (based on the best
15 information available to such person) of the income
16 of any individual specified by the Commissioner as
17 described in subparagraph (A);

18 “(II) to provide such information regarding the
19 basis for such estimate as the Commissioner may
20 specify; and

21 “(III) that prohibits each person providing such
22 services from contacting the individual, employers of
23 the individual, members of the individual's family,
24 and such other persons as the Commissioner may
25 specify.

1 “(iii) For purposes of this section, the term ‘qualified
2 social security income verification contractor’ means the
3 person providing services to the Secretary under a quali-
4 fied social security income verification contract.

5 “(D)(i) Nothing in any provision of law shall be con-
6 strued to prevent the Secretary from—

7 “(I) entering into a qualified social security in-
8 come verification contract, or

9 “(II) providing identifying information to a
10 qualified social security income verification con-
11 tractor as provided in this paragraph.

12 “(ii) The United States shall not be liable for any
13 act or omission of any person performing services under
14 a qualified social security income verification contract.

15 “(E) In any case in which an independent estimate
16 conducted pursuant to this paragraph with respect to an
17 individual entitled to disability insurance benefits dem-
18 onstrates that such individual failed to accurately report
19 any monthly income, the Commissioner of Social Security
20 shall conduct an investigation of such individual to deter-
21 mine whether such individual’s monthly income dem-
22 onstrates the individual’s ability to engage in substantial
23 gainful activity.”.

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