

114TH CONGRESS  
2D SESSION

# S. 2721

To amend title II of the Social Security Act to credit individuals serving as caregivers of dependent relatives with deemed wages for up to five years of such service.

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## IN THE SENATE OF THE UNITED STATES

MARCH 17, 2016

Mr. MURPHY (for himself and Mr. SANDERS) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend title II of the Social Security Act to credit individuals serving as caregivers of dependent relatives with deemed wages for up to five years of such service.

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 Care-  
5 giver Credit Act of 2016”.

6 **SEC. 2. FINDINGS AND SENSE OF THE SENATE.**

7 (a) FINDINGS.—Congress finds that:

1           (1) Caregiving is an essential element of family  
2       life and a vital service for children, the ill, the dis-  
3       abled, and the elderly.

4           (2) The establishment of a caregiver credit  
5       would bolster the economic prospects of unpaid care-  
6       givers and would provide them with vital retirement  
7       security.

8           (3) The 2015 Annual Report of the Board of  
9       Trustees of the Federal Old-Age and Survivors In-  
10      surance and Federal Disability Insurance Trust  
11      Funds concluded that the combined Trust Funds  
12      will be able to pay scheduled benefits in full until  
13      2034.

14          (4) While there is no immediate crisis, policy  
15      options should be considered to extend OASDI sol-  
16      vency, including by eradicating the gender wage gap,  
17      increasing overall employment, or increasing the  
18      minimum wage.

19          (b) SENSE OF THE SENATE.—It is the sense of Sen-  
20      ate that the United States Congress must address the un-  
21      fair exclusion of professional and hardworking home care  
22      providers who are not eligible to receive Social Security  
23      or Medicare because they provide paid care to a family  
24      member with a disability under programs operated at the

1 State and local level for general health and welfare protec-  
 2 tion.

3 **SEC. 3. DEEMED WAGES FOR CAREGIVERS OF DEPENDENT**  
 4 **RELATIVES.**

5 (a) IN GENERAL.—Title II of the Social Security Act  
 6 is amended by adding after section 234 (42 U.S.C. 434)  
 7 the following new section:

8 “DEEMED WAGES FOR CAREGIVERS OF DEPENDENT  
 9 RELATIVES

10 “SEC. 235. (a) DEFINITIONS.—For purposes of this  
 11 section—

12 “(1)(A) Subject to subparagraph (B), the term  
 13 ‘qualifying month’ means, in connection with an in-  
 14 dividual, any month—

15 “(i) beginning after the date which is 60  
 16 months prior to the date of the enactment of  
 17 the Social Security Caregiver Credit Act of  
 18 2016, and

19 “(ii) during which such individual was en-  
 20 gaged for not less than 80 hours in providing  
 21 care to a dependent relative without monetary  
 22 compensation.

23 “(B) The term ‘qualifying month’ does not in-  
 24 clude any month ending after the date on which  
 25 such individual attains retirement age (as defined in  
 26 section 216(l)).

1           “(2) The term ‘dependent relative’ means, in  
2 connection with an individual—

3           “(A) a child, grandchild, niece, or nephew  
4 (of such individual or such individual’s spouse  
5 or domestic partner), or a child to which the in-  
6 dividual or the individual’s spouse or domestic  
7 partner is standing in loco parentis, who is  
8 under the age of 12, or

9           “(B) a child, grandchild, niece, or nephew  
10 (of such individual or such individual’s spouse  
11 or domestic partner), a child to which the indi-  
12 vidual or the individual’s spouse or domestic  
13 partner is standing in loco parentis, a parent,  
14 sibling, aunt, or uncle (of such individual or his  
15 or her spouse or domestic partner), or such in-  
16 dividual’s spouse or domestic partner, if such  
17 child, grandchild, niece, nephew, parent, sibling,  
18 aunt, uncle, spouse, or domestic partner is a  
19 chronically dependent individual.

20           “(3)(A) The term ‘chronically dependent indi-  
21 vidual’ means an individual who—

22           “(i) is dependent on a daily basis on verbal  
23 reminding, physical cueing, supervision, or  
24 other assistance provided to the individual by  
25 another person in the performance of at least

1 two of the activities of daily living (described in  
2 subparagraph (B)) or instrumental activities of  
3 daily living (described in subparagraph (C)),  
4 and

5 “(ii) without the assistance described in  
6 clause (i), could not perform such activities of  
7 daily living or instrumental activities of daily  
8 living.

9 “(B) The ‘activities of daily living’ referred to  
10 in subparagraph (A) means basic personal everyday  
11 activities, including—

12 “(i) Eating.

13 “(ii) Bathing.

14 “(iii) Dressing.

15 “(iv) Toileting.

16 “(v) Transferring in and out of a bed or  
17 in and out of a chair.

18 “(C) The ‘instrumental activities of daily living’  
19 referred to in subparagraph (A) means activities re-  
20 lated to living independently in the community, in-  
21 cluding—

22 “(i) Meal planning and preparation.

23 “(ii) Managing finances.

24 “(iii) Shopping for food, clothing, or other  
25 essential items.

1                   “(iv) Performing essential household  
2                   chores.

3                   “(v) Communicating by phone or other  
4                   form of media.

5                   “(vi) Traveling around and participating in  
6                   the community.

7           “(b) DEEMED WAGES OF CAREGIVER.—(1)(A) For  
8 purposes of determining entitlement to and the amount  
9 of any monthly benefit for any month after December  
10 2016, or entitlement to and the amount of any lump-sum  
11 death payment in the case of a death after such month,  
12 payable under this title on the basis of the wages and self-  
13 employment income of any individual, and for purposes  
14 of section 216(i)(3), such individual shall be deemed to  
15 have been paid during each qualifying month (in addition  
16 to wages or self-employment income actually paid to or  
17 derived by such individual during such month) at an  
18 amount per month equal to—

19                   “(i) in the case of a qualifying month during  
20                   which no wages or self-employment income were ac-  
21                   tually paid to or derived by such individual, 50 per-  
22                   cent of the national average wage index (as defined  
23                   in section 209(k)(1)) for the second calendar year  
24                   preceding the calendar year in which such month oc-  
25                   curs; and

1           “(ii) in the case of any other qualifying month,  
 2           the excess of the amount determined under clause (i)  
 3           over  $\frac{1}{2}$  of the wages or self-employment income ac-  
 4           tually paid to or derived by such individual during  
 5           such month.

6           “(B) In any case in which there are more than 60  
 7           qualifying months for an individual, only the last 60 of  
 8           such months shall be taken into account for purposes of  
 9           this section.

10          “(2) Paragraph (1) shall not be applicable in the case  
 11         of any monthly benefit or lump-sum death payment if a  
 12         larger such benefit or payment, as the case may be, would  
 13         be payable without its application.

14          “(c) RULES AND REGULATIONS.—

15                 “(1) Not later than one year after the date of  
 16                 the enactment of this section, the Commissioner of  
 17                 Social Security shall promulgate such regulations as  
 18                 are necessary to carry out this section and to pre-  
 19                 vent fraud and abuse with respect to the benefits  
 20                 under this section, including regulations establishing  
 21                 procedures for the application and certification re-  
 22                 quirements described in paragraph (2).

23                 “(2) A qualifying month shall not be taken into  
 24                 account under this section with respect to an indi-  
 25                 vidual unless—

“(A) the individual submits to the Commissioner of Social Security an application for benefits under this section that includes—

“(i) the name and identifying information of the dependent relative with respect to whom the individual was engaged in providing care during such month;

“(ii) if the dependent relative is not a child under the age of 12, documentation from the physician of the dependent relative explaining why the dependent relative is a chronically dependent individual; and

“(iii) such other information as the Commissioner may require to verify the status of the dependent relative; and

“(B) for every qualifying month or period of up to 12 consecutive qualifying months that occurs after the first period of 12 consecutive qualifying months, the individual certifies, in such form and manner as the Commissioner shall require, that the information provided in the individual’s application for benefits under this section has not changed.”.

(b) CONFORMING AMENDMENT.—Section 209(k)(1) of such Act (42 U.S.C. 409(k)(1)) is amended—



- 1           (1) by striking “and” before “230(b)(2)” the
- 2       first time it appears; and
- 3           (2) by inserting “and 235(b)(1)(A)(i),” after
- 4       “1977),”.

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