

116TH CONGRESS  
1ST SESSION

# H. R. 142

To provide for phased-in payment of Social Security Disability Insurance payments during the waiting period for individuals with a terminal illness.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2019

Mr. RODNEY DAVIS of Illinois introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To provide for phased-in payment of Social Security Disability Insurance payments during the waiting period for individuals with a terminal illness.

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 Dis-  
5 ability Fairness Act of 2019”.

6 **SEC. 2. PHASED-IN PAYMENT OF SSDI BENEFITS DURING**  
7 **THE WAITING PERIOD FOR THE TERMINALLY**  
8 **ILL.**

9 (a) IN GENERAL.—Section 223 of the Social Security  
10 Act (42 U.S.C. 423) is amended—

1 (1) in subsection (a)—

2 (A) in paragraph (1), in the matter fol-  
3 lowing subparagraph (E), by striking “or (ii)”  
4 and inserting “(ii) subject to paragraph (2)(B),  
5 for each month beginning with the first month  
6 during all of which the individual is determined  
7 under subparagraph (D) of subsection (d)(2) to  
8 be under a disability and in which he becomes  
9 so entitled to such insurance benefits, or (iii)”;

10 (B) in paragraph (2)—

11 (i) in subparagraph (A), by striking  
12 “or” at the end;

13 (ii) by redesignating subparagraph  
14 (B) as subparagraph (C);

15 (iii) in subparagraph (C), as so reded-  
16 igned, by striking “(ii)” and inserting  
17 “(iii)”; and

18 (iv) by inserting after subparagraph  
19 (A) the following new subparagraph:

20 “(B) in any case in which clause (ii) of para-  
21 graph (1) of this subsection is applicable, the first  
22 month for which the individual becomes entitled to  
23 such disability insurance benefits, subject to the  
24 phase-in percentage period described in paragraph  
25 (3)(A), or”; and

1 (C) by adding at the end the following new  
2 paragraph:

3 “(3)(A) For purposes of paragraph (2)(B), in any  
4 case in which clause (ii) of paragraph (1) of this sub-  
5 section is applicable, an individual’s disability insurance  
6 benefit for the earliest period of consecutive calendar  
7 months throughout which the individual has been entitled  
8 to such insurance benefits shall be equal to the product  
9 of the benefit amount determined under paragraph (2)(B)  
10 (as determined before application of this paragraph)  
11 and—

12 “(i) for the first calendar month, 50 percent;

13 “(ii) for the second calendar month, 75 percent;

14 and

15 “(iii) for each subsequent calendar month  
16 through the twelfth calendar month, 100 percent.

17 “(B) If an individual who has been determined under  
18 subparagraph (D) of subsection (d)(2) to be under a dis-  
19 ability has been entitled to a disability insurance benefit  
20 on such basis for 12 consecutive calendar months, the in-  
21 dividual’s disability insurance benefit for any month dur-  
22 ing the subsequent period of 12 consecutive calendar  
23 months shall be equal to—

1           “(i) the benefit amount determined under para-  
2           graph (2)(B) (as determined before application of  
3           subparagraph (A)); minus

4           “(ii) the quotient obtained by dividing the total  
5           amount of disability insurance benefits provided to  
6           the individual during the earliest period of five con-  
7           secutive calendar months for which the individual  
8           was entitled to such benefits on such basis by 12.

9           “(C) If an individual who has been determined under  
10          subparagraph (D) of subsection (d)(2) to be under a dis-  
11          ability has been entitled to a disability insurance benefit  
12          on such basis for 24 consecutive calendar months, the in-  
13          dividual’s disability insurance benefit for any subsequent  
14          month shall be equal to 95 percent of the benefit amount  
15          determined under paragraph (2)(B) (as determined before  
16          application of subparagraphs (A) and (B)).”; and

17                 (2) in subsection (d)(2), by adding at the end  
18          the following:

19                 “(D) For purposes of clause (ii) of paragraph  
20          (1) of subsection (a), an individual shall be deter-  
21          mined to be under a disability upon submission of a  
22          diagnosis of a terminal illness (as defined in section  
23          1861(dd)(3)(A)) that has been certified by not less  
24          than 2 physicians (as defined in section 1861(r)(1))  
25          who are not related (as defined in section 267(e)(4)

1 of the Internal Revenue Code) and are not in the  
2 same physician group practice.”.

3 (b) REPORTS TO CONGRESS.—

4 (1) REPORT BY SOCIAL SECURITY ADMINISTRA-  
5 TION.—Not later than 12 months after the date of  
6 the enactment of this Act, and each year thereafter,  
7 the Commissioner of Social Security, in coordination  
8 with the Inspector General of the Social Security  
9 Administration, shall submit to the relevant commit-  
10 tees of Congress a report that evaluates the provi-  
11 sion of disability insurance benefits to terminally ill  
12 individuals, including—

13 (A) the total number of individuals who—

14 (i) filed applications for disability in-  
15 surance benefits (as determined under sec-  
16 tion 223(a)(3) of the Social Security Act)  
17 based on a diagnosis of a terminal illness;

18 (ii) receive such benefits;

19 (iii) die within 6 months of first re-  
20 ceiving such benefits;

21 (iv) die within 12 months of first re-  
22 ceiving such benefits;

23 (v) receive such benefits during the  
24 period described in section 223(a)(3)(B) of  
25 the Social Security Act; and

1 (vi) receive such benefits during the  
2 period described in section 223(a)(3)(C) of  
3 the Social Security Act;

4 (B) the total amount expended, including  
5 related administrative expenses, for the provi-  
6 sion of disability insurance benefits under sec-  
7 tion 223(a)(3) of the Social Security Act to in-  
8 dividuals diagnosed with a terminal illness; and

9 (C) recommendations for such legislation  
10 and administrative actions as are determined  
11 appropriate for preventing fraud, waste, and  
12 abuse related to such benefits.

13 (2) REPORT BY GOVERNMENT ACCOUNTABILITY  
14 OFFICE.—Not later than 4 years after the date of  
15 the enactment of this Act, the Comptroller General  
16 of the United States shall submit a report to the rel-  
17 evant committees of Congress that evaluates the pro-  
18 vision of disability insurance benefits to terminally ill  
19 individuals and provides recommendations for such  
20 legislation and administrative actions as are deter-  
21 mined appropriate to improve the provision of such  
22 benefits to such individuals.

23 (c) EFFECTIVE DATE; SUNSET.—

24 (1) IN GENERAL.—Subject to paragraph (2),  
25 the amendments made by this section shall apply to

1        benefits payable for months beginning after Decem-  
2        ber 31, 2019.

3            (2) SUNSET.—The amendments made by sub-  
4        section (a) shall cease to have effect on January 1,  
5        2025, and upon such date, section 223 of the Social  
6        Security Act shall read as if such amendments had  
7        not been enacted.

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