

118TH CONGRESS
1ST SESSION

S. 1211

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.

IN THE SENATE OF THE UNITED STATES

APRIL 19, 2023

Mr. MURPHY (for himself, Mrs. GILLIBRAND, and Ms. SMITH) introduced the following bill; which was read twice and referred to the Committee on Finance

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 2023”.

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 2022 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 (b) SENSE OF THE SENATE.—It is the sense of the
15 Senate that the United States Congress must address the
16 unfair exclusion of professional and hardworking home
17 care providers who are not eligible to receive Social Secu-
18 rity or Medicare because they provide paid care to a family
19 member with a disability under programs operated at the
20 State and local level for general health and welfare protec-
21 tion.

1 **SEC. 3. DEEMED WAGES FOR CAREGIVERS OF DEPENDENT**
 2 **RELATIVES.**

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

6 “DEEMED WAGES FOR CAREGIVERS OF DEPENDENT
 7 RELATIVES

8 “SEC. 235. (a) DEFINITIONS.—For purposes of this
 9 section—

10 “(1)(A) Subject to subparagraph (B), the term
 11 ‘qualifying month’ means, in connection with an in-
 12 dividual, any month during which such individual
 13 was engaged for not less than 80 hours in providing
 14 care to a dependent relative without monetary com-
 15 pensation.

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

20 “(C) For purposes of subparagraph (A), assist-
 21 ance provided to a family caregiver of an eligible vet-
 22 eran under section 1720G of title 38, United States
 23 Code, shall not be considered monetary compensa-
 24 tion for providing care to such eligible veteran.

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

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

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

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

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

1 subparagraph (B)) or instrumental activities of
2 daily living (described in subparagraph (C));
3 and

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

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

11 “(i) eating;

12 “(ii) bathing;

13 “(iii) dressing;

14 “(iv) toileting; and

15 “(v) transferring in and out of a bed or in
16 and out of a chair.

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

21 “(i) meal planning and preparation;

22 “(ii) managing finances;

23 “(iii) shopping for food, clothing, or other
24 essential items;

1 “(iv) performing essential household
2 chores;

3 “(v) communicating by phone or other
4 form of media; and

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 2023, 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 1 year after the date of the
 16 enactment of this section, the Commissioner of So-
 17 cial 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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