

117TH CONGRESS  
1ST SESSION

# S. 1099

To amend title XIX of the Social Security Act to make permanent the protections under Medicaid for recipients of home and community-based services against spousal impoverishment.

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## IN THE SENATE OF THE UNITED STATES

APRIL 13, 2021

Mr. CASEY (for himself, Ms. SMITH, Mr. VAN HOLLEN, Mrs. GILLIBRAND, Mr. BLUMENTHAL, Mrs. SHAHEEN, Mr. BROWN, Ms. STABENOW, Ms. KLOBUCHAR, Ms. CORTEZ MASTO, and Ms. DUCKWORTH) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XIX of the Social Security Act to make permanent the protections under Medicaid for recipients of home and community-based services against spousal impoverishment.

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 “Protecting Married  
5 Seniors From Impoverishment Act”.

1 **SEC. 2. MAKING PERMANENT THE PROTECTION UNDER**  
 2 **MEDICAID FOR RECIPIENTS OF HOME AND**  
 3 **COMMUNITY-BASED SERVICES AGAINST**  
 4 **SPOUSAL IMPOVERISHMENT.**

5 (a) **IN GENERAL.**—Section 1924(h)(1)(A) of the So-  
 6 cial Security Act (42 U.S.C. 1396r–5(h)(1)(A)) is amend-  
 7 ed by striking “(at the option of the State) is described  
 8 in section 1902(a)(10)(A)(ii)(VI)” and inserting the fol-  
 9 lowing: “is eligible for medical assistance for home and  
 10 community-based services provided under subsection (c),  
 11 (d), or (i) of section 1915, under a waiver approved under  
 12 section 1115, or who is eligible for such medical assistance  
 13 by reason of being determined eligible under section  
 14 1902(a)(10)(C) or by reason of section 1902(f) or other-  
 15 wise on the basis of a reduction of income based on costs  
 16 incurred for medical or other remedial care, or who is eligi-  
 17 ble for medical assistance for home and community-based  
 18 attendant services and supports under section 1915(k)”.

19 (b) **CONFORMING AMENDMENT.**—Section 2404 of the  
 20 Patient Protection and Affordable Care Act (42 U.S.C.  
 21 1396r–5 note) is amended by striking “September 30,  
 22 2023” and inserting “the date of the enactment of the  
 23 Protecting Married Seniors From Impoverishment Act”.

24 (c) **RULE OF CONSTRUCTION.**—Nothing in section  
 25 1924 of the Social Security Act (42 U.S.C. 1396r–5) or  
 26 section 1902(a)(17) of such Act (42 U.S.C. 1396a(a)(17))

1 shall be construed as prohibiting a State from applying  
2 an income or resource disregard authorized under section  
3 1902(r)(2) of such Act (42 U.S.C. 1396a(r)(2))—

4 (1) to the income or resources of individuals de-  
5 scribed in section 1902(a)(10)(A)(ii)(VI) of such Act  
6 (42 U.S.C. 1396a(a)(10)(A)(ii)(VI)) (including a  
7 disregard of the income or resources of such individ-  
8 ual's spouse); or

9 (2) on the basis of an individual's need for  
10 home and community-based services authorized  
11 under subsection (c), (d), (i), or (k) of section 1915  
12 of such Act (42 U.S.C. 1396n) or under section  
13 1115 of such Act (42 U.S.C. 1315).

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