To amend title XIX of the Social Security Act to remove an institutional bias by making permanent the protection for recipients of home and community-based services against spousal impoverishment.

IN THE SENATE OF THE UNITED STATES
JUNE 27, 2019
Mr. Casey (for himself, Ms. Smith, Mr. Van Hollen, Mrs. Gillibrand, Mr. Blumenthal, Mrs. Shaheen, Mr. Brown, Ms. Stabenow, and Ms. Klobuchar) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL
To amend title XIX of the Social Security Act to remove an institutional bias by making permanent the protection for recipients of home and community-based services against spousal impoverishment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. MAKING PERMANENT THE PROTECTION UNDER MEDICAID FOR RECIPIENTS OF HOME AND COMMUNITY-BASED SERVICES AGAINST SPOUSAL IMPOVERISHMENT.

(a) In General.—Section 1924(h)(1)(A) of the Social Security Act (42 U.S.C. 1396r–5(h)(1)(A)) is amended by striking “or who (at the option of the State) is described in section 1902(a)(10)(A)(ii)(VI)” and inserting the following: “or who, before October 1, 2019, at the option of the State, is described in section 1902(a)(10)(A)(ii)(VI) or, beginning October 1, 2019, is eligible for medical assistance for home and community-based services provided under subsection (c), (d), or (i) of section 1915, under a waiver approved under section 1115, or who is eligible for such medical assistance by reason of being determined eligible under section 1902(a)(10)(C) or by reason of section 1902(f) or otherwise on the basis of a reduction of income based on costs incurred for medical or other remedial care, or who is eligible for medical assistance for home and community-based attendant services and supports under section 1915(k)”.

(b) Rule of Construction.—Nothing in section 2404 of Public Law 111–148 (42 U.S.C. 1396r–5 note), section 1924 of the Social Security Act (42 U.S.C. 1396r–5), or section 1902(a)(17) of such Act (42 U.S.C. 1396a(a)(17)) shall be construed as prohibiting a State
from applying an income or resource disregard authorized
under section 1902(r)(2) of such Act (42 U.S.C. 1396a(r)(2))—

(1) to the income or resources of individuals described in section 1902(a)(10)(A)(ii)(VI) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)(VI)) (including a disregard of the income or resources of such individual’s spouse); or

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