

115TH CONGRESS  
2D SESSION

# H. R. 7149

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.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 2018

Mrs. DINGELL (for herself and Mr. UPTON) introduced the following bill;  
which was referred to the Committee on Energy and Commerce

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## 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.

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: “before January 1, 2019, at the option of the  
10 State, is described in section 1902(a)(10)(A)(ii)(VI), or,  
11 beginning January 1, 2019, is eligible for medical assist-  
12 ance for home and community-based services provided  
13 under subsection (c), (d), or (i) of section 1915, under  
14 a waiver approved under section 1115, or who is eligible  
15 for such medical assistance by reason of being determined  
16 eligible under section 1902(a)(10)(C) or by reason of sec-  
17 tion 1902(f) or otherwise on the basis of a reduction of  
18 income based on costs incurred for medical or other reme-  
19 dial care, or who is eligible for medical assistance for home  
20 and community-based attendant services and supports  
21 under section 1915(k)”.

22 (b) CONSTRUCTION.—

23 (1) PROTECTING STATE SPOUSAL INCOME AND  
24 ASSET DISREGARD FLEXIBILITY UNDER WAIVERS  
25 AND PLAN AMENDMENTS.—Nothing in section 2404  
26 of Public Law 111–148 (42 U.S.C. 1395r–5) or sec-

1       tion 1924 of the Social Security Act (42 U.S.C.  
2       1396r–5) shall be construed as prohibiting a State  
3       from disregarding an individual’s spousal income  
4       and assets under a State waiver or plan amendment  
5       described in paragraph (2) for purposes of making  
6       determinations of eligibility for home and commu-  
7       nity-based services or home and community-based  
8       attendant services and supports under such waiver  
9       or plan amendment.

10           (2) STATE WAIVER OR PLAN AMENDMENT DE-  
11       SCRIBED.—A State waiver or plan amendment de-  
12       scribed in this paragraph is any of the following:

13           (A) A waiver or plan amendment to pro-  
14       vide medical assistance for home and commu-  
15       nity-based services under a waiver or plan  
16       amendment under subsection (c), (d), or (i) of  
17       section 1915 of the Social Security Act (42  
18       U.S.C. 1396n) or under section 1115 of such  
19       Act (42 U.S.C. 1315).

20           (B) A plan amendment to provide medical  
21       assistance for home and community-based serv-  
22       ices for individuals by reason of being deter-  
23       mined eligible under section 1902(a)(10)(C) of  
24       such Act (42 U.S.C. 1396a(a)(10)(C)) or by  
25       reason of section 1902(f) of such Act (42

1 U.S.C. 1396a(f)) or otherwise on the basis of a  
2 reduction of income based on costs incurred for  
3 medical or other remedial care under which the  
4 State disregarded the income and assets of the  
5 individual's spouse in determining the initial  
6 and ongoing financial eligibility of an individual  
7 for such services in place of the spousal impoverishment provisions applied under section 1924  
8 of such Act (42 U.S.C. 1396r-5).

10 (C) A plan amendment to provide medical  
11 assistance for home and community-based attendant services and supports under section  
12 1915(k) of such Act (42 U.S.C. 1396n(k)).  
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