

THE LEGACY OF CHERNOBYL

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. BONIOR. Mr. Speaker, it was a silent killer, and people will continue to feel its direct effects well into the next millennium. Millions of lives have been unalterably changed by it. Sickness, death and dispossession arrived, stayed, and have yet to leave.

On April 26, 1986, reactor No. 4 at the Chernobyl Atomic Energy Station ignited, causing an explosion, fire, and partial meltdown of the reactor core. Ten years have now passed since that terrible day. Today, the ghosts of history's worst nuclear disaster can't be avoided in the pines and the farmland, now overgrown, that surround Chernobyl. The city of Pripyat, once housing 40,000, sits empty. Dozens of villages have been abandoned.

The 134,000 people who were evacuated from the area won't be returning to their homes. An area the size of Rhode Island is now a dead zone. The health effects are equally astonishing. Sadly, cancer among children has tripled. Ukraine now has the highest rate of infertility in the world. Birth defects have nearly doubled.

Mr. Speaker, our Government, many charitable organizations, and individuals have contributed to efforts to recover from the disaster. We must continue those efforts, and we must enhance them for the people of Ukraine. Ukraine faces many challenges, not the least of which are the human and economic costs of coping with the effects of Chernobyl.

Today we must pause to remember those who lost their lives and those whose lives were changed forever. We learned many lessons from that tragedy 10 years ago, and now we must move forward and help our friends in Ukraine prepare for the future.

REGULATORY FAIR WARNING ACT

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. GEKAS. Mr. Speaker, today I am introducing the Regulatory Fair Warning Act along with 12 cosponsors. This legislation codifies the principles of due process, fair warning and common sense that were always intended to be required by the Administrative Procedure Act [APA]. The bill requires that an agency give the regulated community adequate notice of its interpretation of a rule. Agencies will be deterred from pursuing penalties based on rules or policies which were either unclear or unavailable to the regulated community.

Specifically, the Regulatory Fair Warning Act would prohibit a civil or criminal sanction from being imposed by an agency or court if the agency or court finds that the rule or related policies published in the Federal Register failed to give the defendant fair warning of the required conduct; or the agency or court finds that the defendant, prior to the alleged violation, reasonably and in good faith determined, based upon information published in the Federal Register or written statements made by an appropriate agency official, that the defendant was in compliance.

In reaching its conclusion regarding this matter, a court could not give deference to an agency's interpretation of a rule which was not timely published in the Federal Register, or otherwise made available to the defendant.

I am pleased to introduce this simple yet necessary measure. Without this fundamental protection, businesses must often operate in an atmosphere of uncertainty as to whether they are in compliance with an agency's most recent interpretation or reinterpretation of its regulations. If and when the day arrives when an agency chooses to enforce its latest interpretation against a regulated business, the business owner has two alternatives: First, roll the dice and hire a Washington lawyer to fight an unknown wrong; or Second, pay the penalty, regardless of culpability.

Adoption of this legislation will encourage agencies to keep the regulated public aware of what their regulations require of them. Before pursuing an enforcement action, an agency will need to consider whether the defendant has acted in good faith and whether the agency is acting within the confines of due process established by the APA. Nothing in this measure is intended to weaken the enforcement powers of the executive branch. This is a moderate measure, meant to provide a minimum of security and predictability to the regulated community and to improve the relationship between agencies and private citizens.

MEDICAL SAVINGS ACCOUNTS:
WHY THEY ARE TAX BREAKS
FOR THE UPPER INCOME AND
BAD NEWS FOR WORKING AMERICANS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 1996

Mr. STARK. Mr. Speaker, medical savings accounts are bad health policy. They are bad tax policy.

The following analysis from the Center on Budget and Policy Studies explains why:

WHO WILL USE MEDICAL SAVINGS ACCOUNTS
AND WHY WILL THEY USE THEM?

(By Iris J. Lav)

Prior analysis of Medical Savings Account proposals has shown that MSAs would primarily benefit those at high income levels because MSAs create opportunities to accumulate tax-sheltered funds for purposes other than medical costs. Higher-income taxpayers would be most likely to take advantage of these tax shelter opportunities because the tax benefits are worth more to taxpayers in higher tax brackets and because such taxpayers can afford to pay substantial out-of-pocket medical costs if they choose to leave the tax-advantaged funds on deposit in the MSAs or if funds accumulated in the MSAs are insufficient to cover their medical bills.

Recently, the Joint Committee on Taxation has released data estimating what proportion of people in each income class would make use of Medical Savings Accounts, finding that a large portion of the participants would be middle class. These data have been used to bolster claims that MSAs would benefit middle class taxpayers as well as the wealthy. But the Joint Tax data are not incompatible with the conclusion that higher-income taxpayers would be the primary beneficiaries of MSAs.

As the text of the Joint Tax analysis makes clear, participation in an MSA may

not be voluntary. Taxpayers who participate in MSAs because their employers offer no other option for health care coverage may not benefit from their participation and may become worse off as a result of their employers' switch from offering a conventional insurance policy or a managed care plan to a plan that offers only a high-deductible insurance plan with an MSA.

JOINT TAX HIGHLIGHTS BENEFITS TO
COMPANIES, NOT EMPLOYEES

The Joint Committee notes that its estimate is based "on the assumption that a large proportion of small- and medium-sized companies might potentially benefit from the MSA proposal and offer such plans to their employees." To assume that a company would benefit generally means that the company would pay less for its employees' insurance coverage. This suggests two further assumptions that likely underlie the Joint Tax analysis.

Small- and medium-sized companies that do not now offer any health insurance would not begin to offer high-deductible coverage with MSAs as a result of this legislation. Such an assumption would result in increased rather than decreased costs for the companies and thus would be incompatible with the statement that the companies would benefit. The analysis must instead assume that employers currently offering conventional coverage or managed care plans would begin to offer high-deductible insurance with MSAs.

Furthermore, companies would receive a cost-saving benefit from such a switch only if the total cost of the high-deductible insurance including the MSAs would be less than the cost of the insurance the company currently offers. Thus the small- and medium-sized companies that switch to high-deductible insurance with MSAs likely would not put the entire difference between the conventional insurance premium and the high-deductible insurance premium into their employees' MSAs. Companies would realize cost savings from the switch only if they choose to keep, as a profit-enhancing savings, at least a portion of the difference in premiums between the two types of plans.

LOW- AND MODERATE INCOME TAXPAYERS MAY
PARTICIPATE IN MSAS INVOLUNTARILY

The Joint Committee on Taxation analysis goes on to say that "Employee wages for small- and medium-sized are weighted toward the lower- and middle-income classes. As a result, the revenue estimate assumes that taxpayers in the lower- and middle-income classes are more likely to be offered a high deductible plan coupled with an MSA as their primary health plan." (Emphasis added.) Although the Committee's use of the term "primary" is ambiguous, it suggests some further issues.

Low- and middle-income employees may be reluctant voluntarily to accept high-deductible insurance with MSAs, because they usually do not have the resources to pay large out-of-pocket health care costs. An assumption that substantial numbers of such employees would participate suggests that their employers might offer only high-deductible insurance with MSAs and would no longer offer either a conventional fee-for-service policy or a managed care plan. For low- and moderate-income employees who consume significant amounts of preventive care for their young families through a health maintenance organization, for example, or have chronic health problems that require continuing care, the restriction of choice to a high-deductible plan could substantially degrade their ability to afford necessary health care services.