career. He openly questioned the role of black troops fighting for a democracy that promoted segregation. He suggested in editorials that black troops should resist such discrimination, and in two instances there were demonstrations at Army camps where Mr. Howard was stationed in England and in the United States. Some changes were initiated by military authorities, but it wasn't until May 1948, when President Truman signed Executive Order No. 9981, that segregation in the military was ended.

As an aide to Gen. Benjamin O. Davis, the first African-American general in the U.S. Army, Howard served on the staff of the Supreme Headquarters Allied Expeditionary Force until being discharged at the war's end.

Upon returning to Howard University, Charles Howard worked with the lawyers and participated in the university's support of the Brown versus Board of Education case, the landmark case that desegregated the Nation's public schools.

Mr. Howard began practicing law in 1955, after earning his law degree in 1954 from Howard University Law School and an international law degree from New York University in 1955. Soon after his graduation from law school, Mr. Howard quickly developed a reputation as a fearless and colorful defense lawyer. Lawyers impressed by his brilliant defense techniques and verbal pyrotechnics often crammed courtrooms to watch him try a case.

''He was certainly tenacious and he wasn't opposed to taking the bench over difficult cases,'' said Gloria E.A. Toote, a Harlem lawyer who held positions in the Nixon, Ford, and Reagan administrations and got to know Mr. Howard when they were students at Howard University. ''Once he was committed, it became a moral commitment, and he wouldn't let go. He'd work until he dropped from sheer exhaustion.''

In the late 1960's, he established Howard and Hargrove, Maryland's first black corporate law firm, which was in the American Building on Charles Street. Later, Howard formed Howard, Brown, and Williams where he retired in 1985.

In 1966, Mr. Howard ran for the House of Delegates and lost, but his race signaled the developing black presence on the city's political landscape. He later helped elect his brother, Joseph C. Howard, to the supreme bench of Baltimore City in 1968. Judge Howard, who was later appointed to the U.S. district court, is now retired.

Charles Howard, Jr.'s professional memberships included the Professional Ethics Committee for Legal Aid to the Indigent, the National Bar Association, the American Society of International Law, and the Maryland State Bar Association. He was active in the NAACP, the YMCA, and the Boy Scouts of America. He was also a member of the board of Arena Players Theater Co. and in 1971 was named to the board of the Maryland Public Broadcast Commission by Gov. Marvin Mandel. He also was acting president of Bay College until the school closed in 1978. Mr. Howard was also a member of the St. James Episcopal Church where was an active member.

In recent years, Mr. Howard was most concerned about economic alternatives to welfare dependency and worked with and counseled black businessmen. A popular tenet of Howard's was that the successful had an obligation to help those in need.

On December 14, 1996, Charles Preston Howard, Jr. died of a heart attack at his home in the Ashburton section of Baltimore, MD at the age of 75. He is survived by his wife of 6 years, the former Jewel White, two sons, Charles P. Howard III of Los Angeles and Charles Lattimore Howard of Philadelphia, a daughter, Catherine Marie Howard of Baltimore, and another brother, Dr. Lawrence Howard of Baltimore.

Charles P. Howard and his dedication to the African-American community will certainly be missed in Baltimore and across the country. He was an outstanding American who labored tirelessly to ensure that every person enjoyed the benefits of true American values.

According to family members, ''Charlie's life work seemed to always orbit around the critical importance of building and nurturing community institutions for the future of humanity everywhere.''

MEDIGAP PROTECTION ACT OF 1997

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. BENTSEN. Mr. Speaker, I rise today to introduce vital consumer protection legislation for Medicare beneficiaries. The Medigap Protection Act of 1997 will provide real freedom to senior citizens to choose between traditional fee-for-service Medicare and managed care Medicare programs without risk of penalty. It does so by guaranteeing access to Medigap supplemental insurance for seniors who choose to enroll in fee-for-service Medicare after participating in Medicare managed care plan.

Congress this year will again debate fundamental changes to the Medicare System. Previous reform proposals would strongly encourage Medicare beneficiaries to enroll in managed care plans. Nationwide, approximately 13 percent of the Medicare population already is enrolled in managed care options. I support providing freedom of choice for senior citizens, but this choice must be real and not coerced. As more senior citizens enroll in managed care plans, we need to ensure that they can reenroll in traditional Medicare without losing benefits or paying a financial penalty.

Under current law, Medicare beneficiaries can enroll in either a managed care product or traditional Medicare Program. Many enrollees in traditional Medicare choose to purchase supplemental insurance policies, often called Medigap, to cover the cost of copayments, deductibles, and other uncovered benefits such as prescription drugs. When Medicare beneficiaries make this initial choice, current law protects them by requiring all insurers to sell Medigap insurance. Regrettably, this consumer protection is not provided after the initial enrollment period.

This legislation would require guaranteed issue of Medigap policies for those senior citizens who choose to enroll in traditional Medicare after leaving a managed care Medicare Program. This bill would require any issuer of Medigap insurance to provide an annual enrollment period of 30 days for those Medicare beneficiaries who reenroll in the traditional Medicare Program. The Secretary of Health and Human Services would issue regulations to enforce this act. The bill would be become effective 90 days after enactment.

Without this protection, senior citizens do not have a real choice. In addition, many senior citizens are not aware of this lack of protection and may enroll in managed care plans without knowledge of this problem. Consumers should be able to choose plans without financial coercion or penalties, such as the inability to purchase Medigap insurance. For many senior citizens, Medigap benefits are extremely important because traditional Medicare does not provide prescription drug coverage. I want to ensure that Medicare beneficiaries make a choice between equal options. This legislation also provides greater freedom and choice for seniors without forcing them to cover the costs of higher copayments, deductibles, and prescription drugs.

This is another common sense health care reform we can pass immediately that should be supported on a bipartisan basis. President Clinton endorsed this provision as part of his 1997 budget. We need to pass commonsense, reasonable legislation that will improve the Medicare Program so senior citizens are protected and have real choice. I urge my colleagues to join me in this effort to strengthen consumer protections for Medicare beneficiaries.

COURT RULING SHOWS WHY CONGRESS MUST CLOSE MEDICARE HOSPITAL OUTPATIENT DEPARTMENT LOOPHOLE THAT HURTS SENIORS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. STARK. Mr. Speaker, today, Representative BILL COYNE and I have introduced legislation to close the Medicare Hospital Outpatient Department [HOPD] loophole that is costing retirees and the disabled billions and billions of dollars a year in improper charges.

On June 25, the U.S. Ninth Circuit Court of Appeals denied a class action motion to require hospitals to charge no more than a reasonable amount for services rendered in HOPD's under Medicare part B.

To quote from the Bureau of National Affairs' description of the case:

> At the center of this case is a fight over cost sharing, and in particular, how much of the cost beneficiaries should be responsible for,'' the appeals court wrote. It explained that under the basic formula for Part B services, a beneficiary must pay 20 percent of the reasonable *charges* for the items and services rendered and the federal government pays a lesser of the reasonable *cost* of such services or the customary charges, but in no case may the payment exceed 80 percent of the reasonable *cost*. [emphasis added]
>
> The court explained that the cost-sharing arrangement is known as the ''80–20 split,'' but the label is misleading because of the total amount paid to the provider, the beneficiary's share typically exceeds 20 percent.
>
> That share rises because the Health Care Financing Administration reimburses on the basis of the hospital's costs, while the beneficiary owes a percentage of hospital charges. Because providers normally charge above cost, the beneficiary's share represents