

To all involved, it was clear that the same public media that had been used as a powerful tool to provoke conflict could be just as instrumental in promoting peace. There are many difficult questions still ahead, but OTI was on the ground early and, if this effort succeeds in keeping the peace, this early contribution will have made a difference.

#### STEPS FOR THE FUTURE

The challenge of the next century will be to maintain a commitment to long term development and crisis prevention, while at the same time developing fast and flexible instruments that will allow us to take direct and positive action in transitions or in situations where crisis is imminent.

Twenty years ago we might have directed the Central Intelligence Agency to take covert actions in these situations. Some would argue that in those days of East-West conflict we were capable of using coercion and brute strength to bring about the desired policy outcome. But the world has changed.

Today, our challenge is to develop overt mechanisms like OTI to quickly advance our strategic interests and both prevent crises and help nations more beyond conflict. The overt mechanisms of the 1990s, unlike the covert efforts of the 1960s, have to be transparent, democratic, and able to stand the test of public scrutiny. The diplomatic and development arms of US foreign policy must work side-by-side to prevent crisis, to transit from crisis, and to produce positive change.

Idealistic? Perhaps. But does an indispensable nation have any other choice?

#### TRIBUTE TO REV. DR. SHELLIE SAMPSON, JR.

#### HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 1997*

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Rev. Dr. Shellie Sampson, Jr. who will be honored on Saturday at the fifteenth pastoral anniversary banquet of the Thessalonian Baptist Church of New York.

In short, Pastor Sampson lives to help other people. He has been diligent in providing spiritual guidance and support to the members of our community.

In addition to his services as Pastor, he led the erection of our Cultural Community Center, and co-founded the Thessalonian Elementary Academy, the Thessalonian Institute of Religion, and the church's bookstore.

Among other activities he is also the president of the Baptist Ministers Conference of greater New York City and vicinity, a member of the Afro-American clergy advisory group to the mayor, an education commissioner at the New York State convention, a teacher at the New York and National Baptist congresses, and a co-founder of south Bronx churches.

Pastor Sampson is an educator and is very actively involved in programs to assist minority students. The killing of his 25-year-old son, Kitu Sampson, a religious disc jockey in Franklin Township, PA, motivated him and strengthened his belief in the need to educate the city's youth. "It works both ways," he said. "Life is unpredictable. You never know when disaster's going to strike. So, it makes you determined to get the young people educated."

He earned a bachelor's degree in science from Rutgers University, a Master of Divinity degree, and a doctorate in Christian education

from Drew University. A firm believer in education, he is currently pursuing another doctorate in education from Temple University. He served as Dean of Education at Shiloh Baptist Association in New Jersey, was the co-commissioner of education at New Jersey State Baptist convention, president of Northern Baptist School of Religion—formerly known as Northern Baptist University—headmaster at Convent Academy, and executive director at Baptist Education Center. His wife, Deloranzo, heads the Thessalonian Elementary Academy.

As it is written in Hebrews 6:10, "for God is not unjust; he will not forget your work and the love you have shown him as you have helped his people and continue to help them," the community, too, recognizes him and is honoring him.

Mr. Speaker, I ask my colleagues to join me in honoring Rev. Dr. Shellie Sampson, Jr. for his fifteen years as Pastor at Thessalonian Baptist Church and his dedication to our south Bronx community.

#### HONORING GALLEN MARSHALL'S OUTSTANDING MUSICAL CAREER AS DIRECTOR AND CONDUCTOR OF THE MASTERWORKS CHORALE AND ORCHESTRA

#### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 1997*

Mr. LANTOS. Mr. Speaker, I rise today to recognize the outstanding musical contributions that Mr. Gallen Marshall has given to our community. Mr. Marshall, who is celebrating his 33d and final season as music director and conductor of the Masterworks Chorale and Orchestra, has devoted his life to sharing with others his love for the creative arts. He has inspired a generation of Californians with his passion for music and his talent for teaching. He will be sorely missed.

Gallen Marshall joined the music faculty at the College of San Mateo in 1963 and a year later founded the Masterworks Chorale at the college. Mr. Marshall's original group consisted of 40 singers. Under his leadership, the chorale quadrupled in size and it blossomed musically as well. Mr. Marshall's singers performed with a wide range of internationally renowned organizations, including the San Francisco Symphony, the San Francisco Opera, the San Jose Symphony, the Festival of Masses, and the Cabrillo Festival.

Gallen Marshall challenged his pupils to fully cultivate their musical talents, and he helped them to achieve new heights of skill and creativity. The chorale performed some of the most demanding works, among them "Flos Campi" by Vaughan Williams, "Four Sacred Pieces" by Verdi, Britten's "War Requiem," and Beethoven's "Missa Solemnis." Mr. Marshall's singers delighted audiences far and wide, from California to Carnegie Hall, where the chorale performed in 1989 to rave reviews. In praising the chorale, Peter E. Tiboris, the music director and principal conductor of the Manhattan Philharmonic, exclaimed, "Without question this was one of the greatest performances of Verdi's 'Requiem' that this hall ever heard. This is a world-class organization and your region is fortunate to have such a musical organization in its midst." The chorale re-

ceived similarly effusive praise in response to concerts around the world, including its seven European tours and the chorale's concert series in the People's Republic of China.

For over three decades, Gallen Marshall's chorale has served as one of the finest examples of bay area culture, and it has been received by the community in a manner worthy of this status. The San Francisco Examiner noted that "choruses abound in the Bay Area, but few, if any, are finer than the Masterworks Chorale." The San Jose Mercury gushed: "The Masterworks Chorale bites off immense challenges and carries them off without blinking." The outstanding quality of Mr. Marshall's work was cited by the Hillbarn Theater, which honored him as the 1992 recipient of its Bravo! Award for excellence and service to the arts in San Mateo County. In describing one notable performance, the San Francisco Chronicle paid special tribute to Marshall's leadership: "Conductor Marshall's skill, as well as fidelity to the music, added a constant plus factor to the evening—a major event of the season. He deserved his ovation." As Gallen Marshall's congressional representative, I could not agree more. He is truly a credit to our community.

Mr. Speaker, I invite my colleagues to join me in congratulating Gallen Marshall for his outstanding musical achievements and to join me as well in wishing him great success in his future endeavors.

#### THE MEDICARE AND MEDICAID WASTE, FRAUD AND ABUSE WASTE PREVENTION AMENDMENTS OF 1997

#### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 1997*

Mr. STARK. Mr. Speaker, along with Mr. McDERMOTT and Mr. WEYGAND, I am pleased to introduce the Medicare and Medicaid Fraud, Abuse and Waste Prevention Act of 1997, a bill that will implement the President's recent initiative to combat waste, fraud, and abuse in Medicare and Medicaid.

Although I congratulate the Republicans for accepting many of the provisions within the administration's fraud bill, several provisions critical to the fight against health care fraud were not included in the budget Medicare package as proposed by Chairman BILL THOMAS and should be made law.

The U.S. taxpayer spends \$191 billion each year to fund Medicare programs. However, \$20 billion, or 10 percent, is lost to fraud. Too many health providers are putting their hands into the public trough. Too many individual physicians, nursing homes, and medical equipment dealers are overcharging the American taxpayer for alleged legitimate Medicare expenses.

Health care fraud burdens the Nation with enormous financial costs, threatening the quality of health care, and endangering the long-term sustainability of the Medicare Program.

Operation Restore Trust, a demonstration program of Health and Human Services, has recovered \$23 for every \$1 spent in their efforts to fight fraud. The program began 2 years ago in California, New York, Texas, and Florida, where large concentrations of Medicare recipients live. To date, the program has

identified \$188 million owed to the Federal Government and led to 74 criminal convictions.

Why do we need these amendments to crack down on fraud and abuse in the Medicare system? It is to prevent scam artists from preying on vulnerable senior citizens.

It is to prevent people like Dorothy and Barry Hultman of Connecticut from building a luxury, state-of-the-art home by scamming the system and overbilling Medicaid by \$1.15 million for nonexistent or exaggerated costs.

It is to prevent people like Vernon Will from filing for bankruptcy and discharging nearly \$20 million in debts, while his nursing home closed in San Jose, CA, notifying 27 elderly residents that they had 1 day to pack up and leave.

It is to prevent a nursing home from collecting \$5,000 for surgical tape for a patient, who somehow used 12.5 miles of this tape over a 6-month period.

It is to prevent drug traffickers identified by the FBI from targeting the health care system.

Finally, it is to prevent the American taxpayer, vulnerable senior citizens, and the poor from being taken for a ride by scam artists. This bill would potentially save the American taxpayer billions of dollars.

According to Secretary Shalala, the program's goals are threefold. First, the amendments make it difficult for fraudulent people to get into the system in the first place. Second, the amendments require providing Federal health care programs with Social Security numbers to track fraudulent or suspect invoices. Third, the amendments enact very strong penalties for those convicted of fraud.

The first goal, making it difficult for a bad actor to enter into the system, and would permit the Secretary to refuse to accept or to terminate an agreement for Medicare if convicted of a felony.

Under the second part of the bill, Medicare providers would be required to provide verified Social Security Numbers and employer identification numbers [EINs] for their practices and for any owners or managing employees.

Lastly, the bill permits a court to impose very strong penalties for violations. The penalties include criminal and civil penalties and injunctions. Also, filing for bankruptcy would not discharge a debt to the United States under Medicare or Medicaid. Again, the goal is to deter those who would try to circumvent the law.

By passing this bill we will accomplish three things. First, we will send a message to those who prey on the more vulnerable segments of our society. We will find them and punish them to the fullest extent of the law. Second, we will give new tools to those fighting health care fraud in helping them to ferret out corruption. Finally, we will reduce the corruption in the nearly \$200 billion Medicare Program, saving money both in the short and the long run.

I urge my fellow Members of Congress to join with me in passing this important piece of legislation. Together, we can combat waste, fraud, and abuse in Medicare and Medicaid.

I refer my colleagues to the attached document, which provides a more detailed description of the bill.

MEDICARE AND MEDICAID FRAUD, ABUSE, AND WASTE PREVENTION AMENDMENT OF 1997  
SECTION-BY-SECTION SUMMARY

(Except as otherwise indicated, this bill amends provisions of the Social Security Act.)

TITLE I—ACCOUNTABILITY OF SERVICE PROVIDERS

Part A—Sanction Authority

Sec. 101. Exclusion of Entity Controlled by Family Member of a Sanctioned Individual.

Section 101 amends section 1128 to authorize the Secretary to exclude from participation in federal health care programs (FHCPs), including Medicare and Medicaid, an entity owned or controlled by an immediate family member of an excluded individual. This will prevent an excluded individual from circumventing the exclusion by transferring ownership or control of a health care entity to a family member.

Sec. 102. Civil Money Penalties (CMPS) for Kickbacks.

Section 102 amends section 1128A to provide for civil monetary penalties for kickback violations against FHCPs. Current law authorizes only criminal penalties or exclusion for those who violate the anti-kickback statute, and this amendment will provide an intermediate remedy.

Sec. 103. CMPs for Persons That Contract With Excluded Individuals.

Section 103 amends section 1128A to provide for CMPs against a person arranging or contracting with an individual or entity for the provision of items or services under a FHCP, if the person knows or should know that the individual or entity has been excluded from participation in the program.

Sec. 104. CMPs for Services Ordered or Prescribed by an Excluded Individual or Entity.

Section 104 amends section 1128A to authorize the Secretary to exclude from FHCPs persons furnishing medical items or services ordered or prescribed by an excluded individual or entity, if the person furnishing the services knows or should know of the exclusion.

Sec. 105. CMPs for False Certification of Eligibility to Receive Partial Hospitalization and Hospice Services.

Section 105 amends section 1128A to provide for CMPs for false certification of need for partial hospitalization or hospice services. (This amendment expands the authority for CMPs for false certification of need for home health services enacted in P.L. 104-191, the Health Insurance Portability and Accountability Act of 1996 (HIPAA).)

Sec. 106. Extension of Subpoena and Injunction Authority.

Section 106 amends section 1128A to extend to the exclusion authority under section 1128 the Secretary's authority to enjoin violative acts and issue subpoenas requiring witnesses to appear or produce testimony. This section also makes clarifying amendments regarding the scope of authority delegable to the Inspector General.

Sec. 107. Kickback Penalties for Knowing Violations.

Section 107 reverses the 1995 decision in *Hanlester Network v. Shalala*, in which the U.S. Circuit Court of Appeals for the 9th Circuit held that a determination of whether a defendant acted "willfully" in violation of Medicare's criminal provisions required proof by the government that the defendant knew his actions violated a known legal duty as opposed to knowing that his conduct was wrongful. The effect of this decision was to place a very high burden of proof on the government.

Sec. 108. Elimination of Exception of Federal Employees Health Benefits Program from Definition of Federal Health Care Program.

Section 108 amends section 1128B(f) to eliminate the exclusion of the Federal Employees Health Benefit (FEHB) Program from the definition of a Federal health care program.

Sec. 109. Amounts of CMPs.

Section 109 amends section 1842 to provide (by reference) specific dollar amounts for CMPs that the Secretary currently has authority to impose in response to a broad range of violations.

Sec. 110. Liability of Physicians in Specialty Hospitals.

Section 110 amends section 1867(d) to authorize CMPs against physicians who are on call to specialty hospitals and who fail or refuse to appear within a reasonable time to provide patients with medical screening examinations or stabilizing treatments.

Sec. 111. Expansion of Criminal Penalties for Kickbacks.

Section 111 amends to section 1128B authorize the imposition of criminal penalties upon persons violating federal anti-kickback provisions with respect to private health care benefit programs. This section also authorizes the Attorney General to bring civil actions in U.S. District Courts to impose civil penalties and treble damages upon those violating anti-kickback provisions with respect to Federal health care programs. Nothing in this bill is intended to diminish the existing authority of any agency of the U.S. Government to administer and enforce the criminal laws of the United States.

Part B—Provider Enrollment Process

Sec. 121. Requirements to Disclose Employer Identification Numbers (EINs) and Social Security Numbers (SSNs).

Section 121 amends sections 1124 and 1124A to authorize the Secretary to require Medicare providers and suppliers to provide social security numbers (SSNs) and employer identification numbers (EINs) for their practices and for any owners or managing employees. The Social Security Administration will be required to verify and correct the SSNs and EINs supplied under this requirement.

Sec. 122. Fees for Agreements with Medicare Providers and Suppliers.

Section 122 amends section 1866 to authorize the Secretary to charge fees to individuals and entities for costs relating to their enrollment and reenrollment as Medicare providers or suppliers.

Sec. 123. Authority to Refuse to Enter into Medicare or Medicaid Agreements with Individuals or Entities Convicted of Felonies.

Section 123 amends sections 1866(b)(2) and 1842 to authorize the Secretary to refuse to enter into, or to terminate or refuse to renew, a contract or agreement for the provision of health care items or services under Medicare with a person or entity that has been convicted of a felony. This section amends section 1902(a)(23) to give State Medicaid agencies authority to deny provider agreements to persons or entities convicted of a felony.

Sec. 124. Fees and Requirements for Issuance of Standard Health Care Identifiers.

Section 124 amends section 1173 to authorize the Secretary to condition the issuance of standard unique health care identifiers to individuals and entities furnishing health care items and services (as provided for by section 262 of HIPAA) on (1) provision of the individual's or entity's SSN or EIN and (2) payment of a fee to cover the Secretary's costs of issuing the identifier.

TITLE II—PROVIDER REIMBURSEMENT AND RELATED MATTERS

Part A—Coverage and Payment Limits

Sec. 201. No Home Health Benefits Based Solely on Drawing Blood.

Section 201 amends sections 1814(a)(2)(C) and 1835(a)(2)(A) to eliminate the simple

drawing of blood from a homebound individual, without the need for other skilled nursing services, as a qualifying event for Medicare home health benefits.

Sec. 202. Monthly Certification for Hospice Care after First Six Months.

Section 202 amends section 1812(a)(4) to require monthly (rather than a one-time) recertification of a hospice Medicare patient as terminally ill after the patient has received hospice services for over 6 months.

Sec. 203. Payment for Home Hospice Care on Basis of Geographic Location of Home.

Section 203 amends section 1814(i)(2) to provide for Medicare payment of hospice care furnished in an individual's home based on the geographic location of the home (rather than of the hospice).

Sec. 204. Limitation on Hospice Care Liability for Individuals Not in Fact Terminally Ill.

Section 204 amends section 1879(g) to provide that Medicare beneficiaries (or hospices) do not have to pay for hospice care based on an incorrect diagnosis of terminal illness if the beneficiary (or hospice) did not know, and could not reasonably have been expected to know, that the diagnosis was in error. As is the case under current practice for other situations involving waiver of liability, a beneficiary has a favorable presumption of ignorance, while a provider of services does not.

Sec. 205. Medicare Capital Asset Sales Price Equal to Book Value.

Section 205 amends section 1861(v)(1)(O) to set the value of a capital asset (as recognized by Medicare) at the time of change of ownership at the book value of the asset. The section also applies this valuation to providers of services other than hospitals and skilled nursing facilities, and eliminates obsolete language referring to a return on equity capital.

Sec. 206. Repeal of Moratorium on Bad Debt Policy.

Section 206 repeals section 4008(c) of the Omnibus Budget Reconciliation Act of 1987, which prohibits the Secretary from making changes in the requirements governing Medicare payment for the bad debts of hospitals.

#### Part B—Bankruptcy Provisions

Sec. 221. Application of Certain Provisions of the Bankruptcy Code.

Section 221(a) adds a new section 1143, which provides that (1) the automatic stay of actions during the pendency of bankruptcy proceedings does not apply to actions by the Secretary or a State with respect to participation in Medicare or Medicaid, including actions relating to program exclusion, CMPs, recovery of overpayments, and denial of claims; (2) debts owed to the United States or to a State for an overpayment (except for an overpayment to a beneficiary) or a penalty, fine, or assessment under Medicare, Medicaid, or title XI are not dischargeable in bankruptcy; and (3) repayment to the United States or to a State of a Medicare or Medicaid debt, or for penalties, fines and assessments with respect to a debtor's participation in Medicare or Medicaid are considered final and not preferential transfers under the Bankruptcy Code.

Section 221(b) adds a new section 1894, which provides that (1) bankruptcy courts must use Medicare rules for determining whether claims by a debtor under the Medicare program are payable, and the allowable amounts of such claims; (2) the notice to creditors required under the Bankruptcy Code must be provided, in the case of Medicare debt, to the Secretary rather than a fiscal agent; and (3) a claim for payment under Medicare cannot be considered a matured debt payable to the bankruptcy estate until allowed by the Secretary.

#### TITLE III—MEDICARE MENTAL HEALTH PARTIAL HOSPITALIZATION SERVICES

Sec. 301. Services not to be furnished in residential settings.

Section 301 amends section 1861(ff)(3)(A) to eliminate payments for partial hospitalization services in an individual's home (including an institutional setting).

Sec. 302. Additional Requirements for Community Mental Health Centers.

Section 302 amends section 1861(ff)(3)(B) to require community mental health centers, as a condition of receiving payments for partial hospitalization services, to serve a substantial number of patients who are not eligible for Medicare benefits, and to meet additional conditions the Secretary may specify concerning the health and safety of patients, or for the effective or efficient furnishing of services.

Sec. 303. Prospective Payment System.

Section 303 amends sections 1833 and 1866 to authorize the Secretary to develop a prospective payment system for partial hospitalization services. The system is to provide for appropriate payment levels for efficient centers and is to take into account payment levels for similar services furnished by other entities. Beneficiary coinsurance is limited to 20 percent of the new payment basis.

#### TITLE IV—MEDICARE RURAL HEALTH CLINICS

Sec. 401. Per-Visit Payment Limits for Provider-Based Clinics.

Section 401 amends section 1833(f) to extend the current per visit payment limits applicable to independent rural health clinics to provider-based clinics (other than clinics based in small rural hospitals with less than 50 beds).

Sec. 402. Assurance of Quality Services.

Section 402 amends section 1861(aa)(2)(I) to require clinics to have a quality assurance and performance program as specified by the Secretary.

Sec. 403. Waiver of Certain Staffing Requirements Limited to Clinics in Program.

Section 403 amends section 1861(aa)(7)(B) to limit the current authority for the Secretary to waive the requirement that a clinic have a mid-level professional available at least 50 percent of the time. The waiver will be applicable only to clinics already providing services under Medicare, and not to entities initially seeking Medicare certification.

Sec. 404. Refinement of Shortage Area Requirements.

Section 404 amends section 1861(aa)(2) to refine the requirements concerning the area in which a clinic is located. First, the section requires triennial recertification that requirements are met. Second, the Secretary has to find that there are insufficient numbers of needed health care practitioners in the clinic's area. Third, clinics that no longer meet the shortage area requirements will be permitted to retain their designation only if the Secretary determines that they are essential to the delivery of primary care services that would otherwise be unavailable in the area.

Sec. 405. Decreased Beneficiary Cost Sharing for RHC Services.

Section 405 amends sections 1861(aa)(2) and 1833(aa)(3) to lower beneficiary coinsurance for RHC services to 20 percent of the per visit limit.

Sec. 406. Prospective Payment System for RHC Services.

Section 406 amends sections 1833 and 1861(aa)(2) to require the Secretary to develop a prospective payment system for rural health clinic services (to go into effect no later than 2001). The system may provide for adjustments for excessive utilization, and is to be updated annually. Initially the system

is to result in aggregate payments approximately equal to those under current law. Beneficiary coinsurance is limited to 20 percent of the new payment basis.

#### WEDDING OF JASON SCOTT STELE AND MICHELLE FAYE LAWRENCE

#### HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 1997*

Mr. PASCRELL. Mr. Speaker, I would like to bring to your attention the momentous occasion of Jason Scott Stele's and Michelle Faye Lawrence's wedding on Saturday, May 31, 1997. The wedding took place in Carmel, IN at the Indianapolis Hebrew Congregation.

Jason was born on October 1, 1974, in Livingston, NJ to Kenneth and Sharon Stele of West Orange. He was educated at West Orange High School and attended Purdue University where he received his bachelor of arts in psychology. A graduate student, Jason received his master of science degree in psychology from George Mason University.

Jason managed to garner numerous awards and distinctions throughout his collegiate career. Among his top honors are membership in Phi Beta Kappa National Honor Society, Golden Key National Honor Society, and Psi Chi National Psychology. Included with this impressive list of accolades is Jason's graduating with distinction—within the upper 5 percent of his class—and making the dean's list.

Michelle was born on December 30, 1973, in Carmel, IN, to Herman and Diane Lawrence. She was educated at Carmel High School and also attended Purdue University, earning her bachelor of science degree in mathematics education. Michelle also managed to garner numerous awards and distinctions, among them being membership in the Golden Key National Honor Society, Kappa Delta Pi National Education Honor Society, and the National Council for Teachers of Mathematics. Included with this list of impressive accolades is Michelle's membership in the Alpha Phi Omega National Service Fraternity and making the dean's list.

Jason and Michelle met while both were attending Purdue University. Jason was set up on a blind date with Michelle by Kristen Cooper, a friend of theirs in the Purdue Marching Band. The two were soon engaged, and were wed on May 31, 1997.

Mr. Speaker, I ask that you join me, our colleagues, and Jason and Michelle's family and friends, in recognizing the momentous occasion of Jason Scott Stele's and Michelle Faye Lawrence's wedding.

#### CELEBRATING 25 YEARS OF AFRICAN-AMERICAN ENTREPRENEURIAL EXCELLENCE

#### HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 3, 1997*

Mr. CONYERS. Mr. Speaker, I rise to pay tribute to the African-American entrepreneurs featured in "Black Enterprise" magazine's June 1997 cover story honoring six "Marathon