INTRODUCTION OF BILL TO REINSTATE INCENTIVE AND CAPITAL PAYMENTS TO PPS-EXEMPT HOSPITALS

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1998

Mr. NEAL of Massachusetts. Mr. Speaker, I rise today to introduce the Reinstatement of Medicare Bonus and Capital Payments for Rehabilitation Act of 1998. This bill would restore the full incentive payment percentages for PPS-exempt rehabilitation hospitals and units that were repealed in Section 4415 of the Balanced Budget Act of 1997 (BBA). The restored percentages would remain in effect only until the new prospective payment system (PPS) for inpatient rehabilitation services in fully phased in by October 1, 2002.

The bill would also change the provision in the BBA that reduced capital payments for PPS-exempt hospitals and units by 15 percent for FY 1999–2002.

Prior to the BBA, qualifying PPS-exempt hospitals were eligible to obtain an incentive payment for keeping their costs below their TEFRA limits. That payment was the lesser of 50 percent of the difference between their costs and the TEFRA limit, or 5 percent of the limit. This system encourages these facilities to incorporate efficiencies without compromising service or quality for their patients. The BBA reduced the applicable percentages to 15 percent and 2 percent, respectively. This modification for paying PPS-exempt (TERFA) hospitals dramatically reduces incentive payments that were designed to reward efficient facilities that are able to keep costs below their TEFRA limits.

The earlier formula actually worked as it was intended. It provided an incentive for PPS-exempt hospitals to keep costs below TEFRA limits while still retaining high quality care. This is evidenced by the fact that patient outcomes have remained the same, despite a decrease in average lengths of stay in PPS-exempt hospitals.

The BBA provision reduces incentive payments so significantly the payments are unlikely to motivate facilities to further reduce lengths of stay. And there could easily be additional negative ramifications to this misguided policy.

First, absent incentives to hold down costs, many facilities may increase lengths of stay if it is more economically feasible to do so. The end result will be increased costs to the Medicare program. In fact, a one-day increase in average Medicare length of stay in rehabilition facilities would result in increase payments of about $200 million. This is substantially more than the amount ''saved'' by the BBA's new formula.

Second, incentive payments should be retained to hold costs down and motivate efficiencies since payments under the new PPS system will be set to total 98 percent of what would have been paid absent the PPS system. That is why it is particularly important that Congress offer providers incentives to hold down costs in the interim. However, under the bill, the restored incentive payments would be retained only until the new PPS for inpatient rehabilitation services, also authorized by the BBA, is fully implemented.

Third, increased lengths of stay may negatively impact patient outcomes if providing necessary rehabilition services is postponed to lengthen a patient's stay. This could lead to another negative—a shortage of beds. It follows that longer lengths of stay will also mean that fewer beds will be available for new patients who require access to rehabilitation services.

Fourth, a shortage of rehabilitation beds could also negatively effect hospitals' costs. Hospitals could end up keeping patients, who otherwise would have been discharged, for longer periods. This would increase their costs.

Finally, many facilities have used incentive payments in the past to help fund building programs for persons with disabilities. These programs also will likely suffer under the revised BBA incentive payment scheme.

My bill would also change the provision in the BBA which imposed a 15-percent reduction in capital payments for PPA-exempt hospitals and units for FY 1999–2002. This provision is very problematic.

Rehabilitation facilities and others are paid on a cost basis, not on a prospective payment basis as other hospitals and providers. They were exempted from capital cuts in the past because of this difference.

The argument for full reimbursement of capital is that a provider under cost reimbursement has no opportunity to make up the loss of capital payments through operating efficiencies. If operating costs go down, so does reimbursement, and the provider is stuck with payment below cost. The provider does not have any incentives to become more efficient, thus the rationale for the incentive bonus payment. This argument is still valid. However, the incentive payment has also been seriously reduced.

A 15-percent cut in capital reimbursement will cost PPS-exempt providers at least $79 million. Total incentive payments are likely to be far less than the aggregate loss from the 15-percent cut in capital reimbursement. Few rehabilitation providers can cover capital cuts with incentive payments. This means that almost all rehabilitation providers will be paid below cost.

Compounding this situation is the fact that a rehabilitation provider does not have the same opportunity as other providers to shift costs to other payers. Because rehabilitation hospitals are heavily dependent on Medicare, they have few non-Medicare patients on whom they can shift costs. That is because 70 percent of admissions and 65 percent of days in rehabilitation are covered by Medicare fee for service. This rate of Medicare utilization is unique among provider groups.

Until the PPS system authorized by the BBA is fully implemented, capital cuts should not be imposed on PPS-exempt rehabilitation hospitals and units. Full payment of capital should continue under the cost-based system because, unlike providers in a PPS system, PPS-exempt providers have no opportunity to make up the loss of capital payments through operating efficiencies. If operating costs go down, so do reimbursements.

For the rehabilitation entities, that leaves the only other way to generate revenue from Medicare—cover the shortfall on capital reimbursement through incentive payments—which the BBA also reduced. For this reason, almost all rehabilitation providers will be paid below cost under the BBA.

That is why I am introducing my bill today. We need to enact this legislation which will repeal Section 4415 and restore the former 50/50 incentive payment formula until a PPS for inpatient rehabilitation services is fully implemented. It also removes the provision that reduces capital reimbursement for rehabilitation hospitals and units for FY 1999–2002. I appreciate your support and look forward to working with all of you on this very important issue.

DANTE B. FASCELL NORTH-SOUTH CENTER ACT OF 1991

SPEECH OF

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mr. SMITH of New Jersey. Mr. Speaker, I rise in support of H.R. 4757, legislation renaming the North/South Center at the University of Miami after our former House colleague, the former Chairman of the Foreign Affairs Committee, the Honorable Dante B. Fascell.

Dante Fascell served in the House of Representatives, from 1954–1992; I was privileged to serve with him on the Foreign Affairs Committee and witness, first-hand, his tireless efforts on behalf of the North/South Center. Given his commitment and his role as a driving force behind the creation and development of the North/South Center, H.R. 4757 is a fitting and long-overdue tribute for Dante Fascell's great work in this regard.

Mr. Speaker, most of us know that the North/South Center is an independent research and educational organization that promotes policy initiatives aimed at resolving the most critical issues facing the nations of the Western Hemisphere. The Center's research, publications, and training efforts have focused on furthering freedom and democracy, and economic development. To date, the Center's programs have benefited citizens of the Western Hemisphere by supplying significant knowledge and expertise relevant to an inter-American agenda which has grown more complex and more critical each year.

In its first eight years, the North/South Center has embraced and fostered the ideals that Dante Fascell outlined when he first envisioned the program, especially the importance of offering academic interchanges—the free exchange of views to promote understanding and cooperation—as a means to promote democracy. The Center has also proven that it is uniquely capable of assessing the increasing interdependence of the two hemispheres, the North and the South, and developing cross border policies that stress the similarities and also bridge the gaps of the countries of the Western Hemisphere. The academic and intellectual dialogues promoted by the Center have helped advance democratic ideals especially in those Western Hemisphere countries where democracy has not yet taken hold.

The North/South Center at the University of Miami has lived up to Dante's hopes and dreams, becoming a major player in helping to determine the conduct of the U.S. in our public policy for the two hemispheres. It is well respected and provides an invaluable source of research, public outreach, cooperative study, and programs of education and training on a large variety of Western Hemisphere issues.

Mr. Speaker, in 1990 the gentleman from Florida, Chairman Dante Fascell, put forth a democracy-promoting concept that today stands as a great tribute to his foresight, commitment and leadership. I am pleased to have had the privilege of serving with Mr. Fascell in this chamber and delighted to participate in honoring his accomplishments in this way. His alma mater, the University of Miami, is to be congratulated for its continued contributions through the North/South Center and for the recommendation to rename the North/South Center in Dante's behalf. It is a well-deserved recognition, and one which will make him, and all of us who served with him here in the House, very proud.

TELECOMMUNICATIONS COMPETITION AND CONSUMER PROTECTION ACT OF 1998

SPEECH OF

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mr. GOODLATTE. Mr. Speaker, I rise today in strong support of this important legislation to address the growing problem of telephone slamming. As the sponsor of an earlier version of anti-slamming legislation with Congressman BASS of New Hampshire, I was pleased to work with the gentleman from Louisiana, Mr. TAUZIN, to move this bill through the Congress.

As we are all aware, the problem of slamming has become an epidemic that has affected millions of American consumers. According to the Federal Communications Commission, tens of thousands of Americans are slammed each year. Among telephone users, this is by far their number one complaint. For many folks, telephones and e-mail are more than just communications devices. They can be the only links between a parent and a child halfway across the globe, or a way for old friends separated by the miles to relive old times. Many of our nation's seniors also rely on the telephone as a window to the world around them. It can be a vital connection that enables them to celebrate life with family and friends.

Telephone slammers don't just rob these folks of their hard-earned dollars. They rob them of a source of happiness, a lifetime to family and friends, and replace it with a feeling of anger and frustration at being swindled. The unsavory characters who commit this crime deserve swift and strong purnishment. Consumers are in need of stronger protections from these criminals. The passage of H.R. 3888 will help law enforcement put an end to the crime of long distance slamming and e-mail spamming.

Congress gave the FCC significant authority to eliminate slamming as part of the Telecommunications Act of 1996. Unfortunately, little action was taken by the FCC to exercise this new authority. The legislation we are considering today will remove a significant portion of the flexbility originally given to the FCC. Instead, the bill outlines a more detailed and instructive plan for eliminating the practice of slamming.

The bill gives telephone carriers two choices. The first option is for carriers to regulate themselves. The carriers have said that they want to eliminate slamming, and we will see if they can live up to their word.

For those carriers that cannot responsibly regulate themselves, they will be subject to the heavy hand of FCC enforcement. I join my colleagues in expressing optimism that carriers will be able to agree on regulations for themselves and stop slamming on their own. I strongly support giving the industry an opportunity to lead on this issue, having long opposed the imposition of burdensome regulations that raise the cost of doing business and serve as a barrier for competition.

For those companies that choose to violate the law, H.R. 3888 provides for significant penalties, including fines as high as $150,000 for repeat offenders. In addition, slammers will be forced to reimburse their victims for any extra charges incurred as a result of the slamming. This will achieve a balance between the need to give companies the ability to standardize their business practices and the need to allow State officials to enforce State statutes against consumer fraud.

The bill also addresses the growing problem of ''spamming,'' which is the mass distribution of unsolicited commercial E-mail messages to private computers. This annoying practice, which has become more widely used as the use of E-mail grows, is not only disruptive but highly intrusive. H.R. 3888 expresses the sense of the Congress that the private sector should promptly adopt, implement, and enforce measures to deter and prevent the improper use of unsolicated commercial electronic mail.

The characters who commit the crime of telephone slamming are striking at one of our most basic human freedoms—communication. Our ability to communicate with others, free from interruption and through our choice of services, must be protected. H.R. 3888 gives law enforcement the ammunication they need to defend consumers against telephone slammers, and will help bring an end to this private pervasive crime. I want to thank the hard work of the Chairman of the Subcommittee on Telecommunications, the gentleman from Louisiana (Mr. TAUZIN), and also my colleague from New Hampshire (Mr. BASS), who has long taken an interest in this important issue. I urge my colleagues to support this important legislation.

STATEMENT ON K–12 EDUCATION INITIATIVES

HON. MATT SALMON

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 19, 1998

Mr. SALMON. Mr. Speaker, the results of the Third International Mathematics and Science Study (TIMSS) released earlier this year, which revealed that U.S. 12th graders scored next to last in advanced math and dead last in physics, are a stunning rebuke to the aggressive efforts of the U.S. Department of Education to centralize the American education system. The Department of Education, which promised that the United States would lead the world in math and science by the year 2000, can't even claim bragging rights over war-torn Slovenia. As to reading, which was not measured by TIMSS, 40 percent of fourth graders can't read. Yet, in response to these epic failures, the education establishment in Washington has come back with demands for more power, more central control, more of the same—although with some new packaging. This is almost the equivalent of exhuming the Kremlin to institute democratic reforms in Russia.

The answer to our educational woes cannot be found in Washington. Washington has spent 30 years and untold billions on a top-down approach to education with little if any success. Spending for education has increased on an annual basis. In fact, according to a report that I commissioned the Congressional Research Service to prepare on a variety of comparative statistics on education in the United States versus other nations participating in the TIMSS assessment, the United States is on the upper end of countries in terms of expenditures per pupil, expenditures per capita, and for average salaries for elementary school teachers. Clearly, our education woes are not for a lack of funding. To improve the educational performance of our children, I believe that we must open the education monopoly at both the federal and state levels, spend education resources more wisely, and return power to parents and communities.

When it comes to returning power to parents and injecting competition and accountability into the public school system, Arizona is at the front of the class. Charter schools—innovative public schools financed by tax dollars but free of most regulations—have flourished. Arizona, which has two percent of the nation's population, is home to one-quarter of the charter schools in existence. (Congress just passed a bill that is designed to increase the number of charter schools.) These schools have fundamentally altered the Arizona education system; traditional public schools now compete with charters for students. The charter school movement has begun the process of having education dollars literally follow the student from school to school. The Arizona legislature also enacted education tax credits last year, which can be used by parents to cover a wide array of education expenses associated with primary and secondary education. The Arizona legislature also enacted education tax credits last year, which can be used by parents to cover a wide array of education expenses associated with primary and secondary education. The education reforms enacted in Arizona are designed to increase parental choice over their children's education and improve education quality. In Arizona, education reform is no longer a spectator sport.

I have introduced two bills with Senator JON KYL that will compliment the new reforms in place in my state and should provide other states with similar opportunities for innovation. One bill, the ''K–12 Community Participation Education Act,'' was inspired by the new Arizona education tax credit and would encourage Americans to get involved personally and to participate in efforts to improve K–12 education. The other proposal, the ''Dollars Follow the Student Education Block Grant Act'' would block grant certain federal education dollars and permit states to distribute the funds in such a way that money would literally ''follow the child'' from school to school, which is the manner in which charter schools are funded in Arizona.