

(4) pledges to do everything in its power to fight prejudice and intolerance that leads to the murder of innocent people.

SENATE RESOLUTION 314—EX-PRESSING THE SENSE OF THE SENATE REGARDING SKILLED NURSING FACILITIES

Mr. HATCH submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 314

Resolved,

SECTION 1. SENSE OF THE SENATE REGARDING AUTHORITY OF SECRETARY, COLLECTION OF DATA, AND REPORT TO CONGRESS.

(a) **AUTHORITY.**—It is the sense of the Senate that the Secretary of Health and Human Services, in making payments under the prospective payment system for skilled nursing facilities pursuant to section 1888(e) of the Social Security Act (42 U.S.C. 1395yy(e)), has the authority under section 1888(e)(4)(G)(i) of such Act to provide for an appropriate adjustment to account for case mix which reflects a patient's medical needs requiring the provision of non-therapy ancillary services (such as respiratory therapy, pharmacy, laboratory, X-ray, and parenteral and enteral services, and covered durable medical supplies).

(b) **DATA.**—It is the sense of the Senate that the Secretary of Health and Human Services should gather sufficient data on the provision of non-therapy ancillary services by skilled nursing facilities that are paid under the prospective payment system pursuant to section 1888(e) of the Social Security Act in order to develop the appropriate adjustment for case mix under section 1888(e)(4)(G)(i) of such Act.

(c) **REPORT TO CONGRESS.**—It is the sense of the Senate that the Secretary of Health and Human Services should periodically report to Congress on the development of the appropriate adjustment for case mix under section 1888(e)(4)(G)(i) of the Social Security Act which reflects a patient's medical needs requiring the provision of non-therapy ancillary services.

Mr. HATCH. Mr. President, today I introduce S. Res. 314 which expresses the sense of the Senate regarding the authority of the Secretary of Health and Human Services to make adjustments in payments made to skilled nursing facilities under the Medicare program.

As my colleagues are aware, pursuant to the Balanced Budget Act of 1997, Congress directed the Health Care Financing Administration to create a new prospective payment system, or PPS, for Medicare-certified skilled nursing facilities, or SNFs, as they are called.

Skilled nursing facilities are now in the process of moving from the historical cost-based reimbursement system to the new prospective payment system.

This new system combines costs associated with nursing services, capital investment, and other medical services bundled together and then adjusted to reflect the needs of the patients.

Congress rightly sought this new system as a way of getting skilled nursing facility operators to manage both the quality and costs of health care for seniors qualified under Medicare.

As this system has been developed quickly since the enactment of the BBA, there has been a problem identified with adjustments for services considered "non-therapy" services.

These include respiratory therapy, pharmaceutical products, parenteral and enteral products, laboratory and x-ray services, and other covered medical supplies.

While I believe that HCFA has done a remarkable job in getting this system in place over the past year, I am concerned that the adjustment in payment for these specific services has not yet been developed.

This is especially true for a patient who is very ill—those with multiple disease conditions treated in a SNF. There is simply not adequate provisions for ensuring that the prospective payment made each day appropriately reflects the higher medical costs that these patients may need.

As a result of this new system, many nursing homes cannot afford to treat certain types of patients. That was never our intent.

HCFA officials have acknowledged that they needed more data to fix the problem. They commissioned a study last year to assist them to make corrections.

However, the data was not yet available in time for the first year to implement some corrections. While I am certain that HCFA will correct this system, I want to ensure that services to our most vulnerable seniors in nursing homes getting complex medical services will continue to get their care.

I do not want bureaucratic delays in any way to impede their care.

The PPS theory of paying according to average does not work when the rates are not based on solid data and the case-mix adjustment for non-therapy ancillaries is based on very little data. This is obviously not what Congress intended with the BBA.

In March, the Medicare Payment Assessment Commission advised the Congress that "the RUG-III system may not adequately differentiate among Medicare SNF patients . . . this may lead to significant overpayment and under payment for patients within a RUG group."

In September, the Appropriations Committee report for the Department of Health and Human Services included the following:

The Committee has heard concerns regarding the equity of the new Medicare SNF prospective payment system as it relates to nontherapy ancillaries. The demonstration upon which the new system was based did not include this class of items and services. Due to the lack of sufficient data to make these changes, the new system may provide a windfall for some providers while seriously impairing the ability of others to treat patients requiring more intensive care. Therefore, the Committee urges HCFA to reexamine this policy and make budget-neutral changes this year to assure continued access to services for high cost patients pending the gathering of sufficient data on which to base permanent reforms.

Mr. President, unless relief is provided and this anomaly in the payment

system is corrected, a major impediment will remain for certain patients with high non-therapy ancillary costs to receive Medicare services in nursing facilities.

An immediate transitional modification is needed before irreparable harm is done to quality care and access for high costs patients. Some facilities have already begun PPS coverage although HCFA apparently will not begin making actual PPS payments until December, or later. However, on January 1 about 60 percent of the SNFs will begin coverage under the PPS.

We must, therefore, develop longer term solutions for these crucial services, but first we must do no harm in the interim.

Providers can quickly change operations to maximize light care and minimize heavy care. Specialty staff, such as respiratory therapists, will be let go; special physical plant and equipment, such as air flow equipment for "clean room" level infection control will be dismantled; and hospital referral arrangements will be changed.

Accordingly, I am submitting today S. Res. 314 expressing the sense of the Senate that the Secretary, pursuant to section 1888(e)(4)(G)(i), has the authority to provide for an appropriate adjustment to account for case mix which reflects a patient's medical needs requiring non-therapy ancillary services.

HCFA has acknowledged the shortcomings of the current RUG-III system. The RUG-III demonstration project had treated these costs as a pass-through because the system did not have the data available to include such costs.

My resolution will clarify and reaffirm Congressional intent that the Secretary has the administrative flexibility to make appropriate adjustments to the case-mix of SNFs to reflect the costs of these services.

One approach, which accommodates HCFA's operational impediment of Year 2000 computer software problems, would be to make payment adjustments to reflect the relative resource utilization of non-therapy ancillaries by different patient types based on a SNF's cost report for the first year under the PPS.

The resolution calls upon the Secretary to gather sufficient data on the provisions of non-therapy ancillaries in order to develop the appropriate adjustments. And, it also urges the Secretary to periodically report to Congress on the development of the appropriate adjustment.

Mr. President, this issue is one of quality and access for America's seniors to community based skilled care.

And, while it was my hope that the Senate could pass this resolution today, I trust my remarks and the language of the resolution will serve to further define the complex issues associated with this important matter.

I am encouraged that the distinguished Chairman of the Finance Committee, Senator ROTH, and the distinguished Minority Member, Senator

MOYNIHAN, have indicated their interest, and look forward to working with them early next year to address this issue in the Finance Committee.

AMENDMENTS SUBMITTED

RELATIVE TO THE ELECTIONS TO BE HELD IN GABON IN DECEMBER 1998

LUGAR AMENDMENT NO. 3834

Mr. LOTT (for Mr. LUGAR) proposed an amendment to the resolution (S. Res. 285) expressing the sense of the Senate that all necessary steps should be taken to ensure the elections to be held in Gabon in December of 1998 are free and fair; as follows:

Strike all after the resolving clause and insert the following:

That the Senate—

(1) recognizes and commends those Gabonese who have demonstrated their love for free and fair elections;

(2) commends the Government of Gabon for inviting the International Foundation for Election Systems to perform a pre-election assessment study;

(3) calls on the Government of Gabon to—

(A) take further measures to ensure the organization and administration of a transparent and credible election and to ensure that the national election commission is able to independently carry out its duties; and

(B) further welcome the International Foundation for Election Systems, the National Democratic Institute, the International Republican Institute, and other appropriate national and international non-governmental organizations to aid the organization of, and to monitor, the December 1998 Presidential election in Gabon, in an effort to assist the government in ensuring that the elections are free and fair;

(4) urges the United States Government to continue to work with the international community, and through appropriate non-governmental organizations, to help create an environment which guarantees free and fair elections; and

(5) urges the United States Government and the international community to continue to encourage and support the institutionalization of democratic processes and the establishment of conditions for good governance in Gabon.

Strike the preamble and insert the following:

Whereas Gabon is a heavily forested and oil-rich country on the west coast of Central Africa;

Whereas Gabon gained independence from France in 1960;

Whereas Gabon is scheduled to hold national elections in December 1998 for the purpose of electing a President;

Whereas the Government of Gabon was subject to single-party rule until 1990 and only one person has held the office of the President since 1967;

Whereas the International Foundation for Election Systems (IFES) and the African American Institute (AAI) served as observers during the organization of the 1993 Presidential and legislative elections in Gabon and found widespread electoral irregularities;

Whereas the Government of Gabon is a signatory to the Paris Accords of 1994, which was approved by national referendum in July

1995, and was instituted to provide for a state of law guaranteeing basic individual freedoms and the organization of free and fair elections under a new independent national election commission;

Whereas the people of Gabon have demonstrated their support for the democratic process through the formation of numerous political parties since 1990 and their strong participation in prior elections; and

Whereas it is in the interest of the United States to promote political and economic freedom in Africa and throughout the world: Now, therefore, be it

Amend the title to read as follows: "Expressing the sense of the Senate that all necessary steps should be taken to ensure the elections to be held in Gabon are free and fair."

RELATIVE TO THE HUMAN RIGHTS ABUSES AGAINST THE CIVILIAN POPULATION OF SIERRA LEONE

ABRAHAM AMENDMENT NO. 3835

Mr. LOTT (for Mr. ABRAHAM) proposed an amendment to the resolution (S. Res. 298) condemning the terror, vengeance, and human rights abuses against the civilian population of Sierra Leone; as follows:

Whereas the ousted Armed Forces Revolutionary Council (AFRC) military junta and the rebel fighters of the Revolutionary United Front (RUF) have mounted a campaign of terror, vengeance, and human rights abuses on the civilian population of Sierra Leone;

Whereas the AFRC and RUF violence against civilians continues with more than 500 survivors of atrocities, including gunshot wounds, amputations or rape;

Whereas the International Committee of the Red Cross estimates that only 1 in 4 victims of mutilation actually makes it to medical help;

Whereas the use and recruitment of children as combatants in this conflict has been widespread, including forcible abduction of children by AFRC and RUF rebels;

Whereas UNICEF estimates the number of children forcibly abducted since March 1998 exceeds 3,000;

Whereas the consequences of this campaign have been the flight of more than 250,000 refugees to Guinea and Liberia in the last 6 months and the increase of over 250,000 displaced Sierra Leoneans in camps and towns in the north and east;

Whereas the Governments of Guinea and Liberia are having great difficulty caring for the huge number of refugees, now totaling 600,000 in Guinea and Liberia, and emergency appeals have been issued by the United Nations High Commission for Refugees for \$7,300,000 for emergency food, shelter, and sanitation, and medical, educational, psychological, and social services;

Whereas starvation and hunger-related deaths have begun in the north where more than 500 people have died since August 1, 1998, a situation that will only get worse in the next months;

Whereas the humanitarian community is unable, because of continuing security concerns, to deliver food and medicine to the vulnerable groups within the north and east of Sierra Leone;

Whereas the Economic Community of West African States and its peacekeeping arm, the Economic Community of West African States Military Observer Group (ECOMOG), are doing their best, but are still lacking in the logistic support needed to either bring

this AFRC and RUF rebel war to a conclusion or force a negotiated settlement;

Whereas arms and weapons continue to be supplied to the AFRC and RUF in direct violation of a United Nations arms embargo;

Whereas the United Nations Under Secretary for Humanitarian Affairs and Emergency Relief Coordinator, Amnesty International, Human Rights Watch, and Refugees International, following visits to Sierra Leone in May and June 1998, condemned, in the strongest terms, the terrible human rights violations done to civilians by the AFRC and RUF rebels; and

Whereas the Special Representative of the United Nations Secretary General for Children and Armed Conflict, following a May 1998 visit to Sierra Leone, called upon the United Nations to make Sierra Leone one of the pilot projects for the rehabilitation of child combatants: Now, therefore, be it

Resolved, That the Senate—

(1) urges the President and the Secretary of State to give high priority to solving the conflict in Sierra Leone and to bring stability to West Africa in general;

(2) condemns the use by all parties of children as combatants, in particular their forcible abduction by the Armed Forces Revolutionary Council and the Revolutionary United Front, in the conflict in Sierra Leone;

(3) calls on rebel forces to permit the establishment of a secure humanitarian corridor to strategic areas in the north and east of Sierra Leone for the safe delivery of food and medicines by the Government of Sierra Leone and humanitarian agencies already in the country mandated to deliver this aid;

(4) urges the President and the Secretary of State to continue to strictly enforce the United Nations arms embargo on the Armed Forces Revolutionary Council and Revolutionary United Front, including the condemnation of other nations found to be not in compliance with the embargo;

(5) urges the President and the Secretary of State to continue to encourage the contribution of peacekeeping forces by member governments of the Economic Community of West African states to its peacekeeping arm, ECOMOG;

(6) urges the President and the Secretary of State to continue to support the appeal of the United Nations High Commission for Refugees for aid to Sierra Leonean refugees in Guinea, Liberia, and elsewhere, as well as other United Nations agencies and non-governmental organizations working in Sierra Leone to bring humanitarian relief and peace to the country, including support the United Nations Observer Mission in Sierra Leone;

(7) urges the President and the Secretary of State to take a more comprehensive and focused approach to its relief, recovery and development assistance program in Sierra Leone and to continue to support the Government of Sierra Leone in its Disarmament, Demobilization and Reintegration Program (DDRP) for the country as peace becomes a reality;

(8) urges the President and Secretary of State to work with the Government of Sierra Leone, with organization of civil society and with ECOMOG in their efforts to promote and protect human rights, including respect for international humanitarian law;

(9) encourages and supports the United Nations Special Representative of the Secretary General for Children and Armed Conflict, Olara Otunu, to continue efforts to work in Sierra Leone to establish programs designed to rehabilitate child combatants; and