

Senators can expect votes throughout the day on Tuesday.

ORDER FOR ADJOURNMENT

Mr. HELMS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator DURBIN.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, reserving the right to object, only to note that Senators REED and SCHUMER may also come to the floor for morning business time, after I have spoken. If the Senator would amend his request that the Senate stand adjourned after the three of us have had an opportunity for morning business, then I have no objection.

Mr. HELMS. Does the Senator mean this evening? When I last talked with the distinguished Senator from New York, I thought he wanted to come tomorrow. But if he wants to come this evening, fine.

Mr. DURBIN. Both Senator REED and Senator SCHUMER, as well as myself. I see Senator REED is on the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PATIENTS' BILL OF RIGHTS

Mr. DURBIN. Mr. President, thank you for the recognition, and I see the Senator from Rhode Island has joined me. I would like to address for a few moments an issue which, frankly, more than half of the people in America identify as something that worries them—a worry over your health insurance. How good is it?

The rules being written by insurance companies now have you worried as to whether you can go to a doctor and get the kinds of treatment you really need for yourself, or your wife, your husband, or another member of your family. Can you go to the hospital of your choice if you have an emergency and need to go to the emergency room? Can you go to the hospital that is closest to where the accident occurred or to your home, or wherever? Does your insurance company say you have to go to another place? If you need a specialist—absolutely need one for your own medical care—can you expect, under your plan, to get that specialist, or do you expect to enter into a negotiation with your insurance company as to whether they will let you go to a certain specialist?

When you doctor sits down with you in his office, when your heart is beating hard and you want to know what kind of treatment you need for that someone you love, are you sure that doctor is always telling you his best judgment based on years of medical training, or is he telling you what the insurance manual says he can tell you under the terms of his contract with

the insurance company? If, God forbid, something goes wrong with a procedure, or something is done that ends up wrong, can you hold whoever is responsible accountable even if it was the insurance companies fault?

These are basic questions that families across America are asking every day. In fact, a Rand study said that 115 million Americans either had a personal experience, or a member of their family or someone they knew had such an experience, with an insurance company that troubled them about whether or not they were being treated fairly.

So the question before the Congress is: Can we try to bring some balance back to this situation so consumers and families across America, when they sign up for health insurance, have some assurance that they are going to get fair treatment, professional treatment, and quality care? It is pretty basic, isn't it?

Can you think of another time in your life when you are more vulnerable than when you are sick, or when you have a baby you love in your arms and you say: Doctor, what does my baby need? Have you ever felt more helpless? I have been there! A lot of Americans have been there. You want to know, when that doctor looks in your eyes and says the best treatment for your little girl is the following surgery at the following hospital, that that is his best medical decision, not an insurance company decision.

How can you hold people accountable in medical care when you have a situation under the law where you cannot take the insurance company into court to hold them responsible for their decisions? That, sadly, is the law today.

So the law that we are hoping to debate on the floor of the Senate and the House called the Patients' Bill of Rights would try to rewrite this basic relationship, so that when you are dealing with your health insurance company, it is with more confidence that you are getting the best care, that you are getting honest answers from your doctor, that the recommendation coming to you for a member of your family or yourself is the best medical recommendation, not an insurance company recommendation.

Now, this is an issue that is not new. We have had it around for a while. But for some reason, the leadership on the other side of the aisle does not want to debate this issue. They don't want us to talk about it. In fact, today there was an unrelated bill, the agriculture appropriations bill before the Senate. BYRON DORGAN of North Dakota looked at the agriculture appropriations bill and offered the Patients' Bill of Rights as an amendment to it. What does that have to do with agriculture? Well, not much. People listening will say: Why did you do that? Well because he was, in desperation, trying to get this matter to the floor because, try as we might, leadership on the other side of the aisle does not want to debate this

issue. They don't want Members of the Senate—Republicans or Democrats—to enter into a debate and have to face tough questions.

How are you going to vote? If I am not mistaken, I accepted voting as part of my responsibilities as a Senator from Illinois. Isn't that why I am here—to debate issues and vote, to use my best judgment to try to improve the law so the people in my State and across the Nation are better off?

One of the key questions here is: What do you do when an insurance company decides that they are not going to provide certain care to you? You have heard these cases. You have seen them in local hometown newspapers, on television, and on the radio where somebody says they need a certain treatment and the insurance company says no.

What is next? Well, under the bill we have proposed on the Democratic side, we have a speedy independent appeals process. Well, it keeps you out of court and gets a decision made by somebody who may be objective. I think that is fair. That is what the Democratic bill proposes.

The Republican bill, however, suggests that the insurance company should decide whether a denial is actually appealable and the insurer which has turned you down gets to pick somebody who will then decide whether the insurance company is right or wrong. And if you are injured, by their denial, you cannot sue. Sound fishy? It does to me. Basically, as far as I am concerned, the insurance company is insulating itself from ever making the right judgment.

That is exactly the situation that we have today. It was recognized by one of the major newspapers in this country, USA Today. This article is from June 19 of last year. They called insurers the "new untouchables"—people you can't sue—your HMO, managed care insurance policy.

Bill Weaver, age 52, says his HMO misdiagnosed a brain tumor for 2 years and told him his condition was inoperable and hopeless.

Jerry Cannon's wife Phyllis died from leukemia after her HMO denied a bone marrow transplant her physician recommended.

Melody Louise Johnson died at the age of age 16 of cystic fibrosis. Her mother says the HMO overruled the specialists.

These are families from across America. Under the law as it is currently written, what recourse do these people have for the terrible outcomes dealing with insurance companies? Listen to this. They can go to Federal court and hire a lawyer and sue the insurance company. Do you know what they can recover? The cost of the procedure—the cost of the medical procedure. So if somebody dies, God forbid, you cannot recover for their death. If someone lingers and suffers literally for years because of a bad decision by the insurance company, they are not liable for that. If someone can't go back to work for 12, 24, or 36 months, you cannot recover a penny for that. They are the