EXTENSIONS OF REMARKS

Assessing HMO Curbs
Hon. Doug Bereuter
of Nebraska

In the House of Representatives
Tuesday, July 27, 1999
Mr. BEREUTER. Mr. Speaker, this Member highly commends to his colleagues the following portions of an editorial "Assessing HMO Curbs," which appeared in the July 21, 1999, edition of the Omaha World-Herald.

A lot of hot air accompanies the debate over whether Congress ought to provide a "bill of rights" for people who obtain their health care from health maintenance organizations. But one thing is reasonably clear. The debate has so far been less about health care than it has been about campaigning for election in 2000.

Democrats want to go into the election season with an excuse to portray Republican candidates as indifferent to the suffering of sick and injured people. The theme is part of a blue-print for restoring Democratic Party control of Congress.

Michael M. Weinstein, in The New York Times, took a calm look at the situation for readers Sunday. "The debate consisted largely of name-calling," he said, with Vice President Al Gore and House Democratic Leader Richard Gephardt calling the GOP plan a charade and a fraud, respectively, and GOP Sen. Phil Gramm of Texas accusing the Democrats of wanting to destroy HMOs by mandating expensive coverage that would drive costs into the stratosphere.

But the partisanship obscures an important truth," Weinstein wrote. "The substantive differences are narrower than they appear." He observed that in the context of election-year politics, combatants on both sides concede they could find ways to give Americans protection from health-care plans that wrongly skim on quality.

Republicans, said Weinstein, know that their bill would never get past President Clinton. They like the bill because it will help them wring contributions out of HMOs and insurance companies.

Democrats, The Times wrote, privately concede that their bill overreaches. But both sides are particularly popular with their generous long-time allies, the members of the Trial Attorneys Association. The Democratic bill would repeal a ban on lawsuits against HMOs, furthering the attorneys' goal of expanding the field for punitive damages.

Weinstein identifies four issues that he says should be relatively easy to compromise: A method by which patients and their physicians can appeal to medical authorities the denial of reimbursement by an HMO; a definition of medical necessity; a modified right to sue for denial of service; and the question of whether the legislation includes immunization for state-regulated health plans as well as the 50 million in employer-sponsored plans not covered by state regulations.

Political partisanship is not an evil thing. Americans have been well-served by the clash of ideas between two political parties with different philosophical approaches to government. It is part of the system of checks and balances.

However, there are some things that should be obvious to members of both parties.

Patients and their physicians tend to overuse health care, driving up the cost. Sometimes they have no other choice. The Wall Street Journal reported yesterday that visits to emergency rooms, one of the most expensive forms of treatment, are up in some places where the HMO treatment is not available at nights and on weekends. Some HMOs want the right to decline reimbursement for emergency room treatment. Is that reasonable? In a case of medical necessity, of course it is not.

HMOs, in attempting to drive the cost back down, have sometimes gone too far in denying care. Although determining the extent of the problem is difficult, it has caused physicians to recoil in horror at the damage done to patients who were sent home from a hospital prematurely or in other ways denied treatment.

For that reason, I am introducing the Medicare Home Health Services Equity Act of 1999 to provide greater equity to Medicare-certified home health agencies, and to provide access to Medicare beneficiaries to medically necessary home health services furnished in an efficient manner under the Medicare Program.

Quality, efficient home health care agencies are suffering under the punitive Interim Payment System and are going out of business. The per beneficiary limits imposed on home health agencies do not, for a great number of agencies, accurately reflect the costs necessarily incurred in the efficient delivery of needed home health services to beneficiaries.

The amount of reductions in reimbursement for home health services furnished under the Medicare program significantly exceeds the amount of reduction in reimbursement for any other service furnished under the Medicare program. This comes at a time when the need for home health services by the Nation's elderly citizens is growing.

Although this is a nation-wide problem, the impact on my home state of Oklahoma has been disproportionately high. In Oklahoma alone, 198 of the 381 licensed home health care agencies have been forced to close their doors, of which 146 were Medicare certified.

Surviving home health agencies which have managed to stay in business have curtailed their medical services due to financial constraints. As a result of this terrible tragedy, the sickest, most frail Medicare beneficiaries are being deprived access to medically necessary home health services. Thousands of elderly and disabled Americans are not receiving the type of quality care at home that they so much need and deserve.

In our efforts to end fraud and abuse, we must make certain that the benefits and much needed services of home health agencies are not lost. Home health care is the least expensive, most cost efficient provider of medical services for Medicare beneficiaries and must be preserved.

For that reason, I am introducing the Medicare Home Health Services Equity Act of 1999. It is critically important that we address this crisis promptly and pass this vital legislation.

Recognizing the Plight of Home Health Care Agencies
Honor. J.C. Watts, Jr.
Of Oklahoma
In the House of Representatives
Tuesday, July 27, 1999
Mr. WATTS of Oklahoma. Mr. Speaker, there is a growing concern over the devastating situation that is plaguing Home Health Care Agencies in this country.

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Introduction of Patient Abuse Prevention Act of 1999
Hon. Fortney Pete Stark
Of California
In the House of Representatives
Tuesday, July 27, 1999
Mr. STARK. Mr. Speaker, I am pleased to introduce the "Patient Abuse Prevention Act of 1999", which is being simultaneously introduced in the Senate by Senator Herbert

[Continued]
KOH. (D-Wis.). This bill is designed to ensure that all prospective employees in long-term care facilities undergo thorough background checks. The bill is similar to a proposal in the Administration's budget, also establishing a national registry of individuals with histories of patient abuse by utilizing data from existing state registries. The goal of the new registry is to prevent workers with a history of abuse from being hired to provide care for the frail elderly.

Previous legislation enacted in 1998 permits—but does not require—nursing homes, skilled nursing facilities and home health agencies to conduct criminal background checks on applicants. This bill takes the next logical step by requiring that all long-term care facilities screen all applicants for employment. The bill is enthusiastically supported by the Secretary of Health and Human Services and the National Citizens' Coalition for Nursing Home Reform. Secretary Shalala believes that this bill establishes a new, uniform standard for long-term care that the administration and congress have set down.

In addition to the background check requirements, the bill imposes significant civil monetary penalties upon providers who hire workers who do not pass background checks.

We have all heard the horror stories about convicted violent offenders obtaining employment in long-term care facilities. Such occurrences are intolerable. This bill is an important step in guaranteeing the safety of our seniors who receive long-term care. I look forward to working with my colleagues in the House and Senate to pass this quality improvement for Medicare and Medicaid patients.

The Secretary of Health and Human Services, Donna E. Shalala, has written to request your support of Congresswoman Stark's bill. This bill's sponsors and is similar in a number of respects to proposals made by the President last year. For the many competent, caring, professionals and facilities who provide safe, quality long term care, it sends a message that we respect and value their high standards and want to find new workers who will live up to them as well. However, for criminals and those with a history of abuse or neglecting those dependent on their care, and for those who may have allowed such individuals access to vulnerable beneficiaries, it says in a clear and unmistakable voice that you will not find a job in long term care paid for by Medicare or Medicaid because we will not tolerate it.

As President Clinton said when he called for such an approach, “When families have to worry as much about a loved one in a nursing home as one living alone, then we are failing our parents and we must do more.” This bill does do more. We applaud your efforts and look forward to continuing to work with you on this bill to improve the safety of sick and frail elderly and disabled people.

Sincerely,

DONNA E. SHALALA.

National Citizens’ Coalition for Nursing Home Reform, Donna E. Shalala, Washington, DC.

Dear Representative Stark: The National Citizens' Coalition for Nursing Home Reform (NCCNHR) commends you and your staff for your initiative in seeking to improve care and conditions in long-term care facilities. NCCNHR is a non-profit consumer organization whose mission is to improve the quality of care and life for long term care residents. Our organization represents residents and their advocates. We work closely with the nation's long-term care ombudsmen and house the National Long Term Care Omnibus Resource Center.

We strongly support your proposed legislation cited as the Long Term Care Patient Protection Act of 1998 to include (1) a requirement that criminal background checks of employees will be conducted in all facilities (including specifically, nursing homes, home health, and hospices); (2) that applicants may not be charged for costs of the checks; (3) that applicants who challenge the accuracy of the background check will also be able to appeal the decision and (4) that there is no longer a prohibition on Medicare and Medicaid reimbursement for the costs of conducting background checks.

We strongly urge, however, that the legislation also expand its language to provide criminal background checks on all long-term care workers who have direct access to residents. Considering the vulnerability of long-term care residents, criminal background checks should be conducted on all workers, including contract workers, in all health care settings, including home care, and assisted living.

Again, NCCNHR congratulates you, Representative Stark, on your persistence and foresight. If you need further information, contact me or Ana Rivas-Beck, J.D., Law and Policy Specialist.

Sincerely,

SARAH GREENE BURGER, Executive Director.

RELIEF FROM INTEREST AND PENALTIES ON FERC REFUNDS

HON. DENNIS MOORE
OF KANSAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 27, 1999

Mr. MOORE. Mr. Speaker, on July 27, the House Commerce Subcommittee on Energy and Power has scheduled a hearing on H.R. 1117, legislation introduced by my colleague from Kansas, JERRY MORAN, and cosponsored by the entire Kansas House delegation.

This legislation would provide relief from unfair interest and penalties on refunds retroactively ordered by the Federal Energy Regulatory Commission. For two decades, FERC allowed gas producers to obtain reimbursement for payment of the Kansas ad valorem tax on natural gas. In a series of orders, FERC repeatedly affirmed the rights of gas producers to collect the ad valorem tax, rebuking various challenges to this practice. In 1993, however, FERC reversed 19 years of precedent and ruled that the ad valorem tax was no longer eligible for reimbursement. FERC has since ordered all producers operating during a 5-year period in the 1980’s to refund both principal and interest associated with reimbursement of the ad valorem tax.

With this legislation hopefully headed toward consideration by the full House of Representatives, I am taking this opportunity to place in the RECORD a letter recently sent by Kansas Senate Democratic Leader Anthony Hensley to House Commerce Committee Ranking Democrat JOHN DINGELL, concerning the legislative history of ad valorem and severance taxes in Kansas.

This bill is extremely important to the State of Kansas and one of our most important industries, the production of oil and gas. Kansas has a long history of ad valorem tax exemption. In 1983 when Governor John Carlin promoted and obtained passage of a severance tax on oil and gas. Prior to 1983, Kansas did not