

like guaranteeing access to appropriate services, providing people with a choice of health plans, ensuring the confidentiality of medical records, protecting the continuity of care, providing consumers with relevant information, covering emergency care, banning gag rules.

Well, I am sad to say that despite strong public support to correct problems like these and the support of many responsible managed care plans, the legislation stalled in Washington last year. That is truly unfortunate, since the problem demands Federal action.

Mr. Speaker, historically State insurance commissioners have done a good job of monitoring the performance of the health plans in their States. But Federal law puts most HMOs beyond the reach of State regulations.

How is this possible? More than two decades ago Congress passed the Employee Retirement Income Security Act, which I will refer to as ERISA, in order to provide some uniformity for pension plans in dealing with different State laws. Health plans were included in ERISA almost as an afterthought. But the result has been a gaping regulatory loophole for self-insured plans under ERISA.

And even more alarming is the fact that this lack of effective regulation is coupled with an immunity from liability for negligent actions.

Now, Mr. Speaker, personal responsibility has been a watchword for this Republican Congress, and this issue should be no different. Health plans that recklessly deny needed medical service should be made to answer for their conduct. Laws that shield them from their responsibility only encourage HMOs to cut corners. Congress created this ERISA loophole, and, Mr. Speaker, Congress should fix it.

Think for a moment about buying a car. Mr. Speaker, I often hear from opponents to this legislation, well, this managed care legislation, this could lead to socialized medicine. But think about buying a car. Federal laws ensure that cars have horns, brakes and headlights. Yet, despite these minimum standards, we do not have a nationalized auto industry. Instead, consumers have lots of choices. But they know that whatever car they buy, that car has to meet certain minimum safety standards. One does not buy safety "a la carte".

The same notion of basic protections and standards should, in my opinion, apply to health plans. Consumer protections will not lead to socialized medicine any more than requiring seat belts has led to a nationalized auto industry.

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In a free market, these minimum standards set a level playing field that allows competition to flourish.

Mr. Speaker, let me share some thoughts on how I think this issue will evolve in the coming months. As we know, we came close to passing the Patients' Bill of Rights last year. Already, however, I see signs that a partisan fight could break out again this year.

While I continue to support the Patients' Bill of Rights and I wish it had passed, I do not want us to get hung up on or let reform die on the altar of partisanship like the opponents to the legislation used last year.

So I decided not to cosponsor the Patients' Bill of Rights this year when the gentleman from Michigan (Mr. DINGELL) introduces it. Instead, I am going to introduce my own bill, probably next week. While my bill will keep the best features of the Patients' Bill of Rights, it will also eliminate some of the provisions that would add regulatory burdens on health plans without really adding much in the way of increased patient safety.

In addition, my bill will have a new formulation on the issue of health plan liability. I continue to believe that health plans which make negligent medical decisions should be accountable for their actions, but Mr. Speaker, winning a lawsuit is little consolation to a family who has lost a loved one.

The best HMO bill will ensure that health care is delivered when it is needed, and to encourage that, the bill which I will drop next week will provide for both an internal and an external appeals process. But unlike last year's Patient Protection Act, the external review will be binding on the plan. It could be requested by either the patient or the health plan. The review would be done by an independent panel of medical experts.

Do external appeals work? A recent review in New York shows that half of all internal appeals are decided in favor of the patient. But that also means that half of the time the HMO's decisions are upheld. The important thing is to get the proper treatment for the patient in a timely way, not necessarily to end the post mortem in a court.

So I will propose that where there is a dispute on denial of care, either the patient or the HMO can take this dispute to an independent peer panel for a binding decision. If the plan follows that decision, there could not be punitive damages against the HMO, since there can be no malice if they bind themselves to the decision of an independent panel of experts.

I suspect that Aetna today wishes they had had an independent peer panel available, even with a binding decision on care, when it denied care to David Goodrich. Last week a California jury handed down a verdict with \$116 million in punitive damages to David Goodrich's wife, Teresa. If Aetna or the Goodriches had had the ability to send

that denial of care to an external review, they could have avoided the courtroom. But Mr. Speaker, more importantly, David Goodrich might be alive today.

That is why my plan should be attractive to both sides of the aisle. Consumers get a reliable and quick external appeals process which will help them get the care they need. They can go to court to collect economic damages or lost wages, future medical care. But if the plan follows the external review's decision, the patient cannot sue for punitive damages.

HMOs, whose greatest fear is of a \$50 or a \$100 million punitive damage award, can shield themselves from those astronomic awards, but only if they follow the recommendations of an independent review panel, which is free to make its own decision about what care is medically necessary, as long as there is not a specific exclusion of coverage of a benefit; i.e., a plan says up front to an enrollee, we do not cover liver transplants.

I have shared this approach with a number of my colleagues as well as consumer groups, businesses, health plans. I have been encouraged by the positive responses that I have received. I think this could be the basis for the bipartisan solution to this problem.

In fact, I recently spoke with the CEO of a large Blue Cross plan who confided to me that his organization is already implementing virtually all of the recommendations of the President's Health Care Quality Advisory Commission at little or no cost, probably no premium increase.

But the one part of the health care debate that concerns him is the issue of liability. He indicated that shielding plans from punitive damages when they follow an external review body would strike an appropriate balance.

Mr. Speaker, passage of real patient protection legislation is going to require a lot of hard work, dedication, and seeking a consensus and a compromise. My new bill represents an effort to break through the partisan gridlock that we saw last year, and to move this issue forward and get a solution signed into law.

I hope that my colleagues will sign on as original cosponsors to the Managed Care Reform Act of 1999. If Members have any questions about parts of this bill or if they want to sign on, please give my office a phone call.

INTRODUCTION OF THE DISASTER MITIGATION ACT OF 1999

The SPEAKER pro tempore (Mr. SHIMKUS). Under a previous order of the House, the gentleman from New York (Mr. BOEHLERT) is recognized for 5 minutes.

Mr. BOEHLERT. Mr. Speaker, I am pleased to be joined by my colleague, the gentleman from Pennsylvania (Mr.

BORSKI) in introducing the Disaster Mitigation Act of 1999.

This widely-supported bipartisan legislation passed the Committee on Transportation and Infrastructure last year, after months of hearings and review by the Subcommittee on Water Resources and Environment, which I am privileged to chair. Similar legislation moved through the Senate Environment and Public Works Committee. The 106th Congress should give priority consideration to the Disaster Mitigation Act.

The introduced bill, essentially unchanged from the bill the Committee on Transportation and Infrastructure reported last year, H.R. 3869, amends the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize a program for predisaster mitigation, to streamline the administration of disaster relief, and to control the Federal cost of disaster assistance.

The two themes of the bill, greater emphasis on mitigation and greater program efficiency, will reduce the cost and suffering natural disasters place on communities and the Nation overall.

Improving our Nation's outdated flood plain maps is a prime example of an area where new technologies can save us millions of dollars. Computerized mapping makes eminent fiscal sense, and may ultimately save thousands of lives. Boy, that is a double-header worthy of strong, strong support.

I look forward to working with the Federal Emergency Management Agency and State and local governments and other public and private sector entities and citizens to continue the effort to make disaster mitigation a national priority.

It makes far more sense to take action prior to a disaster to minimize the negative impact of that disaster. That makes so much more sense than to do what we have been doing year after year after year: A disaster comes, there is so much suffering, our hearts are pulled at, and we obviously respond. That is what government needs to do, but far better to minimize the impact before the disaster than to react to the disaster after it has occurred.

I am particularly pleased about the prospects of working with the chairwoman, the gentlewoman from Florida (Mrs. TILLIE FOWLER) and the ranking Democrat, the gentleman from Ohio (Mr. JIM TRAFICANT) on the new Subcommittee on Oversight, Investigations, and Emergency Management, which has jurisdiction over the Federal Emergency Management Agency.

Jurisdiction has been transferred from my subcommittee to the subcommittee of the gentlewoman from Florida (Mrs. FOWLER). I have already had extensive conversations with her. She is very much in support of this effort. I look forward to working with

her. I think it is going to be a productive partnership, and it is going to be bipartisan, Mr. Speaker.

My hope is that the legislation reported by the committee last year and reintroduced today by the gentleman from Pennsylvania (Mr. BORSKI) and me will help the subcommittee as it reviews FEMA programs and considers legislation to improve the Nation's approach to disasters.

RESPONSES TO CONSTITUENTS' CONCERNS: THE READING OF THE MAILBAG

The SPEAKER pro tempore (Mr. GANSKE). Under the Speaker's announced policy of January 6, 1999, the gentleman from Illinois (Mr. SHIMKUS) is recognized for 60 minutes.

Mr. SHIMKUS. Mr. Speaker, I want to take a little time today to talk to the people back in my home district. My office receives many, many letters from constituents on numerous subjects, and I would like to read a few of them and answer them right here on the floor of the House. Let me begin. I call this the reading of the mailbag.

Mailbag letter number one. My first letter comes from Reinhold Maschhoff of Nashville, Illinois, who wrote to me about low hog prices.

"Dear sir, I am writing you about the low price on hogs. . . . First of all, I'm 80 years of age and doing some work. My wife is very active and does a lot of volunteer work at the hospital and nursing home.

"We used to live on a farm. However, my son farms and has a family. He farms only 300 acres. The rest has to come out of livestock. . . . This has made a good living for them. Now since August he has been losing money, \$25 to \$30 a pig.

"I think of all the work he does, and then to think he is losing money, as much as \$2,500 a load. This will lead to bankruptcy. What are you doing about it? Sincerely, Reinhold Maschhoff."

My response is that the recently rock bottom hog prices are a very real problem in Illinois. Literally hundreds of farmers have contacted me about this crisis, including Ruth Rensing of New Douglas, Illinois, and Daniel Matthews of Nokomis, Illinois.

Although no one has a quick and easy solution for these prices, I want to talk about what Congress and the Federal Government is doing right now. I recently held a series of meetings on the hog crisis with family farmers back in the 20th District of Illinois. Local farmers, agricultural leaders, and government officials met together in Springfield, Mt. Vernon, and Pittsfield, Illinois, to discuss their concerns in the hog industry, and to talk about any short- and long-term remedies that were available. I will briefly highlight a few here.

In order to help farmers suffering from low prices, the U.S. Department

of Agriculture announced several procedures to stem the hog crisis. The USDA will allow farmers to defer loan payments, and has made available payments to some struggling hog farmers. The agency has also brought \$70 million worth of pork for food aid programs.

While I realize this help is really a drop in the bucket compared to what many farmers have lost, I would encourage any farmers wishing to participate to contact either my district office or their local Farm Service Agency office.

Responding to the concerns of many small farmers in central and southern Illinois, I am in strong support of the Department of Justice's review of the agricultural industry, making sure that small- and medium-sized family farmers are not pushed out of the markets by larger companies.

I have also written and signed several letters to key agricultural leaders in Washington, including the chairman of the Committee on Agriculture, the gentleman from Texas (Mr. COMBEST), Agriculture Secretary Glickman, and House leadership, asking each to consider any help that is available for struggling farmers, like the Maschhoff family.

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With the help of dozens of farmers who attended my district hog crisis meetings, we came to the conclusion that although we have no quick and easy answers for low prices, Congress can take action to prevent this from happening in the future. By renewing fast track trade authority, helping farmers find new markets, passing new trade bills and making sure farmers can easily get their products to market, Congress can help our struggling pork producers and hog farmers.

Thank you for the letter, Reinhold.

Letter number two, my next letter comes from Brent Barnes of Beecher City, Illinois. This letter's topic is a fair tax bill.

On January 11th, Mr. Barnes wrote: "Dear Representative SHIMKUS, as a constituent, I urge you to support the fair tax bill legislation that will allow every American the opportunity to save more for education, a home or a better retirement. The fair tax is a national sales tax system that is fair, simple and efficient. It will allow me to keep my whole paycheck, and I will never have to file a tax return again.

"I urge you to support this bill and to please respond in writing to my request for information about your position on the fair tax. Signed Brent Barnes."

Thanks for your letter, Brent. I like the sound of this legislation. I hope you know that when I ran for office and now as your Congressman, I believe strongly that we must reform our Tax Code. Unfortunately, I do not think the