

## MEDICARE HOME HEALTH

Ms. COLLINS. Mr. President, it is absolutely critical that Congress take action this year to address some of the unintended consequences of the Balanced Budget Act of 1997, which has been exacerbated by a host of ill-conceived new regulatory requirements imposed by the Clinton administration.

The combination of regulatory overkill and budget cutbacks is jeopardizing access to critical home health services for millions of our Nation's most frail and vulnerable senior citizens.

Tonight, the Senator from Wisconsin and I are taking the opportunity to talk about this very important issue. The Senator from Wisconsin has been a real leader in helping to restore the cuts and to fight the onerous regulatory requirements imposed by the administration which have affected home health care services across the Nation.

I also want to recognize that there have been many other Senators who have been involved in this fight. I am going to put a list of the cosponsors to the legislation that I have introduced into the RECORD.

I ask unanimous consent a list of cosponsors, which exceeds 50 Senators, be printed in the RECORD, reflecting the contributions many of our colleagues have made to this fight.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

## COSPONSORS OF S. 2365

Spencer Abraham, Wayne Allard, John Ashcroft, Max Baucus, Robert F. Bennett, Jeff Bingaman, Christopher S. Bond, Barbara Boxer, Sam Brownback, Conrad R. Burns.

Lincoln D. Chafee, Max Cleland, Thad Cochran, Kent Conrad, Michael DeWine, Christopher J. Dodd, John Edwards, Michael B. Enzi, Dianne Feinstein, Bill Frist.

Slade Gorton, Rod Grams, Judd Gregg, Chuck Hagel, Orrin G. Hatch, Jesse Helms, Ernest F. Hollings, Y. Tim Hutchinson, Kay Bailey Hutchison, James M. Inhofe.

James M. Jeffords, John F. Kerry, Frank R. Lautenberg, Patrick J. Leahy, Carl Levin, Joseph I. Lieberman, Blanche Lincoln, Richard G. Lugar, Barbara A. Mikulski, Frank H. Murkowski.

Patty Murray, Jack Reed, Pat Roberts, John D. Rockefeller IV, Rick Santorum, Charles E. Schumer, Bob Smith, Gordon Smith, Olympia J. Snowe, Arlen Specter.

Robert G. Torricelli, George V. Voinovich, John W. Warner, Paul D. Wellstone.

Ms. COLLINS. Mr. President, health care has come full circle. Patients are spending less time in the hospital. More and more procedures are being done on an outpatient basis, and recovery and care for patients with chronic diseases and conditions has increasingly been taking place in the home. Moreover, the number of older Americans who are chronically ill or disabled in some way continues to grow each year. Concerns about how to care for these individuals will only multiply as our population ages and is at greater risk of chronic disease and disability.

As a consequence, home health has become an increasingly important part of our health care system. The kinds of highly skilled—and often technically complex—services that our nation's home health agencies provide have enabled millions of our most frail and vulnerable older persons to avoid hospitals and nursing homes and stay just where they want to be—in the comfort and security of their own homes.

By the late 1990s, home health was the fastest growing component of Medicare spending. The program grew at an average annual rate of more than 25 percent from 1990 to 1997. The number of home health beneficiaries more than doubled, and Medicare home health spending soared from \$2.5 billion in 1989 to \$17.8 billion in 1997.

This rapid growth in home health spending understandably prompted the Congress and the Administration, as part of the Balanced Budget Act of 1997, to initiate changes that were intended to slow this growth in spending and make the program more cost-effective and efficient. These measures, however, have unfortunately produced cuts in home health spending far beyond what Congress intended. Home health spending dropped to \$9.7 billion in FY 1999—just about half the 1997 amount. And on the horizon is an additional 15 percent cut that would put our already struggling home health agencies at risk and would seriously jeopardize access to critical home health services for millions of our nation's seniors.

Last year, I chaired a hearing of the Permanent Subcommittee on Investigations where we heard about the financial distress and cash-flow problems that home health agencies across the country are experiencing. Indeed, over 2,500 agencies, about one-quarter of all home health agencies nationwide, have either closed or stopped serving Medicare patients. Others have laid off staff or declined to accept new patients with more serious health problems. Moreover, the financial problems of home health agencies have been exacerbated by a number of burdensome new regulatory requirements imposed by the Health Care Financing Administration.

One witness, who is a CEO of a visiting nurse service in Saco, ME, termed HCFA's regulatory policy as that of being "implement and suspend." No longer had the agency spent all this money and time and effort in complying with a new regulatory requirement, then the Federal Government decided: never mind; we really didn't mean it; we weren't ready to implement this.

We also heard numerous complaints about OASIS, a system of data collection containing data on the physical, mental, and functional status of patients receiving care from home health agencies. Not only has this been a very expensive and burdensome paperwork

process, but the process of collecting information invades the personal privacy of many patients, which they understandably are concerned about.

I recently met with home health nurses in southern Maine and I heard complaints about the administrative burdens and paperwork requirements associated with OASIS and its effect on patient care. I also heard what the real impact of the budget cutbacks has meant for many of the people in the State of Maine.

I call attention to a chart that shows the impact that we are already experiencing in the State of Maine. As shown in the chart, nearly 7,500 Maine citizens have lost access to home health services altogether. What has happened to those 7,500 senior citizens? Believe me, I know from my discussions with dedicated nurses who were providing home health services to them, it is not that they have recovered; it is not that they have gotten well. Rather, the loss of home health services has forced many of them into nursing homes prematurely or has put them at risk of increased hospitalization.

Ironically, the Medicare trust fund pays far more for nursing home care or for hospitalization than it would continue to provide home health care services to these individuals. The chart shows the financial burden in Maine in a year's time has suffered a 26-percent decrease in reimbursements for a 30-percent cut in visits. Again, it is our most vulnerable, frail, ill, elderly citizens who are bearing the brunt of these cutbacks.

I heard very sad stories about the impact. Consider the case of one elderly woman who suffered from advanced Alzheimer's disease, pneumonia, and hypertension, among other illnesses. She was bed bound, verbally non-responsive, and had a number of other serious health issues, including infections and weight loss. This woman had been receiving home health services for 2 years. That allowed her to continue to stabilize through the care and the coordination of a compassionate and skilled home health nurse. Unfortunately, the agency received a denial notice, terminating home health care for this woman.

A true tragedy happened in this case. Less than 3 months later, after her home health care had been terminated, this woman died as a result of a wound on her foot that went untreated, a serious wound that undoubtedly her home health nurse would have recognized.

This is only one of the heart-wrenching stories that I heard during that visit. It is only one of the countless testimonials that I have heard from both patients and home health providers across the State.

It is now clear that the savings goals set forth for home health in the Balanced Budget Act of 1997 have not only been met but far surpassed. According

to a recent study by the Congressional Budget Office, spending for home health care has fallen by more than 35 percent in the last year. In fact, CBO cites this larger than anticipated reduction in home health care spending as the reason why overall Medicare spending fell last year for the first time.

The CBO now projects that the post-Balanced Budget Act reductions in home health will be about \$69 billion between fiscal years 1998 and 2002. This is over four times the \$16 billion that Congress expected to save as a result of the 1997 act. It is a clear indication, particularly when combined with the regulatory overkill of this administration, that the Medicare home health cutbacks have been far deeper and far wider reaching than Congress ever intended.

I have introduced legislation which is cosponsored by the Senator from Wisconsin who, as I said, has been a leader in this area, with my colleague from Missouri, Senator BOND. In fact, both Senator BOND and Senator ASHCROFT, as well as many of my other colleagues, are cosponsors of legislation that eliminates the further 15-percent reduction in Medicare payments to home health agencies that is currently scheduled to go into effect on October 1 of next year. If we do not act to eliminate this 15-percent cut that is looming on the horizon, it will sound the death knell for thousands of home health agencies. And ultimately the people, the true victims, will be those senior citizens who will no longer receive the care they need. I know the Presiding Officer has also been very concerned about the impact in his State; all Members who have rural States know the importance of home health care.

As Congress prepares for action on Medicare, we should give top priority to providing much needed relief to our Nation's beleaguered home health agencies. The legislation I have introduced currently has 55 Senate cosponsors—32 Republicans and 23 Democrats. It has the strong backing of patient and consumer groups, ranging from the American Diabetes Association, the National Council on Aging, Easter Seals, the American Nurses Association, and the National Family Caregivers Association, as well as the two major industry groups representing home health care agencies with whom we have worked very closely.

It is imperative we solve this problem before we adjourn this year. I appreciate the opportunity to address this issue.

The remainder of the time will be reserved for the Senator from Wisconsin, with whom it has been a real pleasure to work on this issue.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I am very pleased to join the Senator from Maine in talking about the importance of eliminating the automatic 15-percent reduction in Medicare payments to home health agencies. It is currently scheduled for October 1, 2001. I am very pleased to be working with her on this because she is a tremendous leader on this issue. It is a very good example of the kind of bipartisanship that is essential for this body to function well. I am most pleased to be working with the Senator on this because it is so obvious she has taken a great deal of time to listen to her constituents about this very important issue.

I have heard the same sad story in Wisconsin, and we hear a lot of very compelling human stories in this job. But I find this one impossible to ignore. I know the Senator from Maine feels the same way. The fact is, this system of home health care—at least in the State of the Senator from Maine and my State—was working. It is not as if it is something we are trying to create. It was working. Because of some poorly constructed policies, it is being harmed in a way that is truly harming older people in our country.

The story the Senator from Maine gave is a very compelling example of a broader series of tragedies that are occurring, I think, on an almost daily basis in my State of Wisconsin, and in many other States.

So, I thank her. I believe strongly that Congress must act to preserve access to home health care for seniors and others. That is why I have made the preservation of access to home health services one of my top priorities in the U.S. Senate.

For seniors who are homebound and have skilled nursing needs, having access to home health services through the Medicare Program is the difference between staying in their own home and moving into a nursing home.

The availability of home health services is integral to preserving independence, dignity, and hope for many beneficiaries. I feel strongly that where there is a choice, we should do our best to allow patients to choose home health care. I think seniors need and deserve that choice.

Mr. President, as you know, and as many of our colleagues know, the Balanced Budget Act of 1997 contained significant changes to the way that Medicare pays for home health services. Perhaps the most significant change was a switch from cost-based reimbursement to an interim payment system, or IPS.

IPS was intended as a cost-saving transitional payment system to tide us over until the development and implementation of a prospective payment system or PPS, for home health payments under Medicare. Unfortunately, the cuts went deeper than anyone—in-

cluding CBO forecasters—anticipated, leaving many Medicare beneficiaries without access to the services they need.

These unintended consequences of the Balanced Budget Act of 1997 have been severe indeed. Instead of the \$100 billion in 5-year savings that we targeted, present projections indicate that actual Medicare reductions have been in the area of \$200 billion.

Home health care spending, which the Congressional Budget Office expected to rise by \$2 billion in the last 2 years even after factoring in the Balanced Budget Act cuts, has instead fallen by nearly \$8 billion, or 45 percent.

These painful cuts have forced more than 40 home health care agencies in 22 Wisconsin counties to close their doors, in just 2 years.

So, what do these changes mean for Medicare beneficiaries?

Frankly, in many parts of Wisconsin, these changes mean that beneficiaries in certain areas or with certain diagnoses simply do not have access to home health care.

I am concerned that a further 15-percent cut in home health care reimbursements will further jeopardize care and leave some of our frailest Medicare beneficiaries without the choice to receive care at home. Last year, I was proud to work with Senator COLLINS and others to delay the automatic 15-percent reduction in Medicare home health payments for one year. However, I believe this reduction must be eliminated in order to preserve access to home health care.

I think seniors need and deserve the choice to stay in their homes, and I hope my colleagues will follow the leadership of Senator COLLINS and others by supporting the elimination of the 15-percent cut.

Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes.

Mr. FEINGOLD. Mr. President, I believe that will be sufficient. I will just proceed, if I may.

#### JUDICIAL HONORARIA

Mr. FEINGOLD. Mr. President, I come to the floor today to express my deep concern about a provision that is tucked into the Commerce, State, Justice appropriations bill. It came to light in a front page story last Thursday in the Washington Post. We have become accustomed in this body to hearing about outrageous special interest provisions finding their way into must-pass appropriations bills, but this one is really special. Section 305 of the bill that was reported by the Appropriations Committee exempts Federal judges from the ban on receiving cash honoraria contained in the Ethics in Government Act.