

substantive legal standard governing the scope of benefits, the payment for services, or the eligibility of individuals, entities, or organizations to furnish or receive services or benefits under this title shall take effect unless it is promulgated by the Secretary by regulation under paragraph (1)."

I find it troubling that those charged with enforcing the law ignore the law and proceed as though the law does not apply to their actions, but only to the actions of others. We must change the culture in HCFA and in HHS that repeatedly issues manual instructions in violation of the law.

The substance of the 1996 HCFA ruling was also inconsistent with the law. Nothing in section 1861(ff) limits the partial hospitalization benefit to services "in lieu of either:

- Admission to an inpatient hospital; or
- A continued inpatient hospitalization."

However, in issuing this new ruling, HCFA relied on a technical inconsistency in the statute. Although the partial hospitalization benefit is defined in section 1861(ff), section 1835(a)(2)(F) provides that a physician must certify that the individual would require inpatient psychiatric care in the absence of such services. Despite HCFA's February 11, 1994 regulation to the contrary, HCFA issued a manual instruction limiting the benefit to the level of the physician certification requirement provided in section 1835.

Based on the new HCFA instruction that severely limited the benefit, HCFA and the Inspector General began intensive investigations of partial hospitalization claims, and not surprisingly, they found that high percentages of the claims did not meet the new standards. When HCFA severely restricted the benefit, programs suddenly found themselves out of compliance. HCFA and the Inspector General then proclaimed that there was widespread "fraud and abuse" in the partial hospitalization benefit. HCFA has been seeking repayments of substantial amounts paid to mental health programs that had been operating on the basis of the earlier published regulation and the manual instructions that were consistent with the regulation and the law.

We need to refocus our attention on the beneficiaries who use the partial hospitalization benefit. In 1997, about 88,000 Medicare beneficiaries were using this benefit. About 60 percent of them were disabled beneficiaries, under the age of 65, and about 60 percent of them were dually eligible for both Medicare and Medicaid. The beneficiaries who need and use this benefit are among the poorest and most disabled beneficiaries in the entire Medicare program. They need our help and our protection, and they need these services.

My record of fighting fraud and abuse in Medicare is long. I hate fraud. We must do everything we can to eliminate fraud in Medicare, including any fraud in the partial hospitalization benefit. But the way to eliminate fraud is not to eliminate the benefit itself. By that standard, it would be easy to eliminate all fraud in Medicare. We would simply eliminate the program! No, instead, we must take steps to address those areas of the benefit where fraud has been found, but we must also restore this benefit for those Medicare beneficiaries who need it.

Today, I am introducing legislation, "The Medicare Partial Hospitalization Services Res-

## EXTENSIONS OF REMARKS

toration and Integrity Act of 2000," that would restore the partial hospitalization benefit as the Congress intended, while also taking steps to limit fraud in the benefit.

First, the bill would require a face-to-face visit with a physician to certify the need for the services.

Second, the bill would tighten the language regarding "individual activity therapies" ((ff)(2)(E)), using limits already in the statute for other approved services (requiring the services to be directly related to the therapy program).

Third, the bill would tighten the survey and certification requirements in (ff)(3) for community mental health centers.

And fourth, the bill would correct the technical flaw in the statute, which HCFA has used to limit the benefit, making the physician certification language under section 1835 the same as that defining the benefit in section 1861(ff).

To address HCFA's lack of publishing regulations, the bill would require a negotiated rule making process to define the benefit, establish quality of care standards, and establish survey and certification standards for CMHCs.

I am introducing this bill now so that interested parties can study it over the adjournment period and suggest improvements. I will reintroduce the bill early in the new Congress, with appropriate refinements. For the sake of some of the most vulnerable in our society, I hope we can enact this kind of legislation early in 2001.

## PIPELINE SAFETY IMPROVEMENT ACT OF 2000

SPEECH OF

**HON. EARL BLUMENAUER**

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, October 10, 2000*

Mr. BLUMENAUER. Mr. Speaker, pipeline safety is literally a matter of life and death. Legislation this important must be crafted carefully, allowing for the input of every member of Congress, since pipeline safety impacts every American community. Legislation this important must be brought through committee and to the Floor of the House of Representatives in an inclusive, nonpartisan manner. Sadly, this was not the case for yesterday's consideration of the Pipeline Safety Improvement Act.

S. 2438 faced significant opposition from consumer, environmental and labor groups, and was opposed by my own committee leadership. The bill did not ensure that pipelines would be inspected and did not do enough to help local emergency management agencies react to pipeline emergencies. Given these, and other concerns, and given the considerable opposition the bill faced, S. 2438 should not have been brought to the floor as a suspension calendar item. Mr. Speaker, we all know that the suspension calendar is meant to move noncontroversial, routine items. As such, these items are given little time for debate and no opportunity for amendment.

Had S. 2438 been brought for a vote in a more open manner, it could have won my sup-

*October 12, 2000*

port. It is my sincerest hope that the Republican leadership will take pipeline safety seriously and bring S. 2438 back to the House of Representatives in a manner that permits its further debate and possible improvement.

## STATEMENT ON THE IMPORTANCE OF DATABASE PROTECTION

**HON. HOWARD L. BERMAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, October 11, 2000*

Mr. BERMAN. Mr. Speaker, I want to take a moment to discuss the importance of legal protection for databases. Databases are extremely important to the continued growth of our hightech based economy. Within databases—organized collections of information—lie the basic tools of the Information Age. The continued development of new and exciting database products depends on adequate legal protection from piracy. Over the past two Congresses we have grappled with the scope of protection that should be afforded database producers. We have worked hard to produce a well balanced approach. Unfortunately, we were unable to bring the development of this legislation to a close in time for consideration before this body. I believe that addressing this issue must be a priority for the 107th Congress and will do all that I can to facilitate passage of database protection legislation in the next Congress.

## PERSONAL EXPLANATION

**HON. DAVID WU**

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, October 11, 2000*

Mr. WU. Mr. Speaker, yesterday, October 10, 2000, I was unavoidably detained due to airline mechanical problems. Had I been present, I would have voted the following ways:

No on rollcall No. 519, S. 2438, the Pipeline Safety Act.

Yes on rollcall No. 520, H.R. 208, a bill to amend title 5, United States Code, to allow for the contribution of certain rollover distributions to accounts in the Thrift Savings Plan, to eliminate certain waiting-period requirements for participating in the Thrift Savings Plan, and for other purposes.

Yes on rollcall No. 521, H.R. 762, Lupus Research and Care Amendments.

## A TRIBUTE TO JAMES HILL FOR 25 YEARS OF GOVERNMENT SERVICE

**HON. GERALD D. KLECZKA**

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, October 11, 2000*

Mr. KLECZKA. Mr. Speaker, I rise today to honor my good friend, Jim Hill, who is celebrating 25 dedicated years of government service.