include any emergency-designated appropriations, which necessitated the earlier adjustment.

As reported to the House, H.R. 2620, the bill making appropriations for Veterans Affairs, Housing and Urban Development, and Independent Agencies for fiscal year 2002, includes an emergency-designated appropriation of $1,900,000,000 in new budget authority to the Federal Emergency Management Agency. No outlays are expected to flow from that budget authority in fiscal year 2002. Under the provisions of both the Budget Act and the budget resolution, I must adjust the 302(a) allocations and budgetary aggregates upon the reporting of a bill containing emergency appropriations.

As passed by the House, H.R. 2590, the bill making appropriations for the Department of Treasury, the Postal Service, and General Government for fiscal year 2002, included $146,000,000 in new budget authority and $143,000,000 in outlays for an earned income tax credit compliance initiative. I also must adjust the 302(a) allocations and budgetary aggregates upon the reporting of a bill containing emergency appropriations, up to the limits specified in the Budget Act (which are the same as the amounts shown above).

To reflect these required adjustments, I hereby increase the 302(a) allocation to the House Committee on Appropriations to $662,746,000,000 for budget authority and $682,919,000,000 for outlays. The increase in the allocation also requires an increase in the budgetary aggregates to $1,627,934,000,000 for budget authority and $1,590,617,000,000 for outlays.

These adjustments apply while the relevant legislation is under consideration and take effect upon final enactment of such legislation. Questions may be directed to Dan Kowalski at 67270.

HMO REFORM

The SPEAKER pro tempore. Under the Speaker’s announced policy of January 3, 2001, the gentleman from Iowa (Mr. GANSEK) is recognized for half the time between now and midnight as the designee of the majority leader.

Mr. GANSEK. Mr. Speaker, we have some important issues coming up in this next week, I hope. One of those, I hope, will be a full debate with a fair rule on a patient’s bill of rights.

We have been working on this legislation for about 5 years, and when we had this debate here on this floor 2 years ago, a young man and his mother came up from Atlanta, Georgia, to see how the debate would go. This little boy’s name was James Adams.

When James was 6 months old, one night about 3 in the morning, he had a temperature of about 105 degrees. He was a pretty sick little baby. His mother phoned the 1-800-HMO number and she said, my little baby is really sick. He was a pretty sick little baby. His mother, Lamona, leaped out of the bed and has a temperature of about 105 degrees. He had developed gangrene. Both hands and both feet had to be amputated. That was a medical decision that that HMO made. That reviewer could have said, your baby is sick. Take him to the closest emergency room. No. Dollars came over good sense. We have a contract with that distant emergency room because that is where we have our contract. But if you go to another one, you are on your own. So Jimmy’s mother said, well, where is it? And the voice at the end of the telephone line said, I do not know, find a map.

Well, there was a hospital in Atlanta, Georgia, at least 50 miles away. So, with an infant who was critically ill, a mom and dad who were not health professionals put little Jimmy in the car, they wrapped him up, and started their trek to the hospital. En route they passed three emergency rooms, but they did not have authorization to stop at those emergency rooms, and they knew if they did they would be turned away.

They were not medical professionals. They did not know how sick little Jimmy was.

So they pushed on. But before they made it to the authorized emergency room, little James Adams had a cardiac arrest.

Imagine yourself as the mother of this little baby, trying to keep him alive, or as the father driving this car when your wife is holding your son. He is not breathing, and you are trying to find the authorized emergency room.

Finally, he pulled into the driveway. His mother, Lamona, leaped out of the car screaming, “Save my baby. Save my baby.”

The nurse came running out and started resuscitation. They put him in an IV. They gave him drugs. They got his heart going, and they managed to save his life. But you know what? They did not save all of Jimmy.

Because of that arrest and the loss of circulation to his body and to his feet he developed gangrene. Both hands and both feet had to be amputated. That is a medical decision that that HMO made. That reviewer could have said, your baby is sick. Take him to the closest emergency room. No. Dollars came over good sense. We have a contract with that distant emergency room. So we are only going to authorize care there.

Mr. Speaker, I suspect that we are going to have some people on this floor next week or maybe in September when we debate this bill, and they are going to get up here and they are going to say we should not legislate on the basis of anecdotes. That is just an anecdote.

I would say to those folks, that little boy is never going to touch the cheek of the woman that he loves with his hand. He is never going to play basketball. He is able to pull on his leg prostheses and with the stump of his arm. That is one of the reasons why we are following the rules to get an authorization.

The HMO reviewer at the end of that telephone line said, well, I guess that...
of coverage in my contract, and they will not give it to me.

Well, after a long time they finally said, they will give it to you; and the morning she was supposed to have the test they changed their mind.

Mr. Speaker, we need a way to resolve these disputes before patients are injured. That is why in the Ganske-Dingell-Norwood bill we have a way to resolve these disputes. If an HMO denies care, a patient can appeal it in the HMO; and if they continue to deny it and the patient thinks they are not being treated fairly, the patient can go to an independent, external review panel of physicians. Their decision will be binding on the plan. But their decision would not be bound by the plan’s own arbitrary guidelines of medical necessity, and that is one of the crucial differences between the Ganske-Dingell-Norwood bill and the Fletcher bill.

If we look at the details of the language in the Fletcher bill, the bill supported by the leadership of this House, Members will see that through very, very clever, I would say cunning language, the independent panel can actually only tell the HMO to do what an HMO reviewer would have done.

Furthermore, that HMO would not be liable for anything other than what a person acting in a similar situation, i.e., another medical reviewer, would have done. Ordinary care is the definition defined in a way that puts into legislative language protections that the HMOs do not even have now. The Fletcher bill gives HMOs affirmative defenses that they do not have under ERISA now. What we are trying to do is fix the law as it exists now.

So I tell my colleagues and friends on both sides of the aisle, if you vote for that Fletcher bill, you are going to be voting for a bill that is worse than current law. You are going to be voting for a bill that protects HMOs more than ERISA does now.

I do not know whether my colleagues want to go home and explain to their constituents how when we are dealing with a bill that is supposed to protect patients, they voted for a bill that protected HMOs more than ERISA does now.

I could go through a long list and read in boring detail how the legislative language in the Fletcher bill is worse than current law. But let me just read a short section from a nonpartisan law professor at George Washington University who has analyzed the Fletcher bill and says of the Fletcher bill:

First through its strong preemption language, the Fletcher bill would significantly restrict legal remedies that are potentially available now under State law in the case of death and injury caused by managed care organizations that operate medically substandard systems of care. In doing so, the Fletcher bill would displace the independent panel defined in a way that puts into legislative language protections for the death or injury that they caused.

The Fletcher bill basically moves State law into Federal law. So for all of my colleagues who have spoken highly of States rights and the 10th amendment in the past, how are you going to justify that position with a vote for Fletcher? Dr. Rosenbaum says:

Second, the Federal remedy created by the legislation fails to provide a minimally acceptable alternative and even this remedy is rendered meaningless through caveats, limitations and provisions. The Federal remedy would have the effect of federalizing managed care medical liability law.

Now, my friends, you have an alternative. It is called the Ganske-Dingell-Norwood-Berry bill. This bill has been debated in the Senate. A lot of Republican Senators worked very hard to improve that bill. For instance, Senators Snowe and DeWine further strengthened the bill’s language protecting employers from liability. It allowed an employer to shift responsibility to a designated decision-maker and thus free itself from liability when it is not involved in medical decision-making. That is important. That adds to our employer protections on liability that says unless you are directly participating in an HMO’s decision, you cannot be held liable. That is fair. Almost all the employers in my district back home hire a PPO or an HMO, they do not get involved in the decisions that they make and they are not responsible. They would not be liable. That will be in our bill as we bring it to the floor.

The DeWine amendment, Senator DeWine from Ohio, a Republican, further restricted the ability to file class actions, The Warner amendment, John Warner, Republican from Virginia, had an amendment that will be in our bill. It caps attorneys’ fees. The Thompson amendment, Senator Fred Thompson, Republican from Tennessee, will be in our bill, that requires exhaustion of appeal remedies before a cause of action can be brought. The Phil Gramm amendment, Senator Phil Gramm, Republican from Texas, clarified that nothing in the bill prevents independent medical reviewers to require plans or issuers to cover specifically excluded items or services. That will be in the Ganske-Dingell-Norwood-Berry bill.

There are a number of other important amendments that will be in our bill. One of them was the Santorum amendment, Senator Santorum, Republican from Pennsylvania, defines fetuses born alive as persons under Federal law and makes them eligible for protection under the patients’ rights bill. That will be in our bill. Furthermore, we have provisions in the Ganske-Dingell-Norwood-Berry bill that would help people afford health insurance. We have 100 percent deductibility for the self-insured, for their health premiums, as an example. We expand medical savings accounts. That was a significant compromise from the Democratic side.

We think that the cries that the sky will fall, the sky will fall that we heard in Texas but never happened, that premiums would go out of sight, that lawsuits would just multiply, there would be an explosion, none of that happened. We wrote our bill several years ago based on Texas law. The Congressional Budget Office estimated that the cost in terms of insurance premiums would be a cumulative 4 percent over 5 years. Our opposition bill based on the Breaux-Frist bill from the Senate would raise premiums about 3 percent cumulative over 5 years. That is about 1 percent different. It is hard to say that the provisions in terms of increased costs for our bill of somewhere in the order of one Big Mac meal per employee per month. Most people in this country think that that would be worth it in order to know that their insurance will actually mean something if they get sick.

There certainly has not been any explosion of lawsuits in Texas which our bill is modeled after. There have just been a handful. Several of the provisions in the health plans that did not follow the law, demonstrating that there is a need for some type of enforcement. But a health plan ought to be liable if they are not following the law. There is a health plan in Texas that had a patient in the hospital who was suicidal, the doctor said the patient needed to stay in the hospital, the health plan said, “No, in our judgment, he doesn’t need to be there, we’re not going to pay for it.” The family could not afford it, they took him home, he drank half a gallon of antifreeze and committed suicide that night. That health plan did not follow the law, because the law said that if there is a dispute, you are supposed to go to an expedited independent review and they just ignored it. If there is not an enforcement provision in these bills that is worth the paper it is written on, then nothing else in the bill will be worth what it is written on.

We have over 800 endorsing and sponsoring organizations commending our bill, calling for its passage. This includes most if not all of the consumer groups around the country in terms of protecting patients, particularly in the States that have placed some responsibility, some legal responsibility, on HMOs, States like Texas.
I believe that is the democratic way that we should run this House.

Mr. Speaker, let us move to a prompt and fair debate on this bill, and let us get on with the people's business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. DeFazio, for 5 minutes, today.

Mr. Brown of Ohio, for 5 minutes, today.

Ms. Jones of Ohio, for 5 minutes, today.

Mr. Hoyle, for 5 minutes, today.

Ms. Brown of Florida, for 5 minutes, today.

Mr. Matheson, for 5 minutes, today.

Ms. Carson of Indiana, for 5 minutes, today.

Mr. Langevin, for 5 minutes, today.

Mr. Speakert, the Speaker of the House promised that we would have a vote on this patient protection bill before we left for our August recess. In fact, we were supposed to have this debate last week. Then it was postponed to this week. The word is out now that we will not have this vote next week either before we go home for August recess.

I would just remind my colleagues that every day HMOs around this country are making health decisions that in many cases are life and death. Those decisions are affecting our family members, our friends, our colleagues, our constituents back home. There is no excuse for not moving ahead and allowing the will of the House to work.

This is supposed to be a democratic institution. Let us have a fair debate, with a fair rule. Sure, there can be amendments. And let us let the will of the people work, and let us move forward in a prompt manner to help patients and our friends get a fair shake from their HMOs and their health insurers in this time of need.

I expect that people will keep their word on this. If we do not have this debate next week, that would be a shame. We should at least move promptly in early September.

But I will tell you, to not bring this bill up because you just cannot have your way, because you do not have the votes, is what I would call a pocket veto without a debate, and I do not believe that is the democratic way that we should run this House.

Mr. Speaker, let us move to a prompt and fair debate on this bill, and let us get on with the people's business.

CONGRESSIONAL RECORD—HOUSE 14757

Now, Mr. Speaker, President Bush has issued a list of principles. We firmly believe that the Ganske-Dingell-Norwood bill meets those principles, especially after the addition of the amendments that were passed almost unanimously in the Senate.

The President has rightly been concerned about increases in costs. We think that is not bill is affordable. The estimates by the Congressional Budget Office confirm that. Since the President during his campaign spoke glowingly of the patient protection bills in Texas, this is what we wrote our bill after. When I look at those seven points that the President said he would need to have for his signature, our bill meets those requirements.

Now, we are more than happy to work with President Bush on this, and our door is open. Members of our group have continued to discuss these items with the President. But it is time to move. It is time to get this legislation through the House and get it into the conference. We will be more than happy to continue discussions with the President on these.

I believe President Bush wants to see a Patients' Bill of Rights signed into law and this is the bill that meets his requirements, and it would just be a darn shame not to end up at the end of the day with a bill that meets those requirements, as we think our bill does.

Mr. Speaker, the Speaker of the House promised that we would have a vote on this patient protection bill before we left for our August recess. In fact, we were supposed to have this debate last week. Then it was postponed to this week. The word is out now that we may not have this vote next week either before we go home for August recess.

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Mr. Speaker, let us move to a prompt and fair debate on this bill, and let us get on with the people's business.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Linder (at the request of Mr. Armey) for after 5 p.m. today and the rest of the week on account of personal reasons.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the speaker's table and referred as follows:

3094. A letter from the Under Secretary, Department of Defense, transmitting a report entitled, "Parity of Pay and Benefits for Active Duty Service and Reserve Service; to the Committee on Armed Services.

3095. A letter from the Secretary of the Navy, Department of Defense, transmitting notification that certain major defense acquisition programs have breached the unit cost by more than 25 percent, pursuant to 10 U.S.C. 2333; to the Committee on Armed Services.


3097. A letter from the Director, Office of Regulations Management, Department of Veterans' Affairs, transmitting the Department's final rule—Increase in Rates Payable Under the Montgomery GI Bill—Selected Reserve (RIN: 2900–AK30) received July 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.


3099. A letter from the General Counsel, Consumer Product Safety Commission, transmitting the Commission's final rule—Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X; Standard for the Flammability of Children's Sleepwear: Size 7 through 14—received July 18, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3100. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agen-

3101. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agen-

3102. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agen-

3103. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agen-

3104. A letter from the Acting Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting the Department's final rule—Amendments to the Iranian Assets Control Regulations—received July 19, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

3105. A letter from the Acting Director, Office of Personnel Management, transmitting a report on the Physicians' Comparability Allowance Program, pursuant to 5 U.S.C.