actually mean it, or at least would be too embarrassed to admit he didn't mean it. I underestimated him.

House Republicans unveiled their welfare reform plan on February 10. Most welfare-watchers expected the new bill to dilute somewhat the contract's work provisions. But few expected the abject abandonment of any credible attempt to require work. Yet that's more or less what Representative Clay Shaw, the lead Republican on welfare reform, announced. The new GOP bill, which has cleared Shaw's subcommittee, is not only weaker on the work issue than President Clinton's welfare proposal, it is in some respects weaker than the current welfare law Republicans deride.

It's certainly a long way from the Contract with America. The contract would have required work by those who had received welfare ''for at least twenty-four months.'' Work meant ''an average of not fewer than thirty-five hours per week.'' No funny business. By 2003, 50 percent of the welfare caseload (which currently consists of more than 5 million households) would be working.

The rationale behind these provisions was obvious: if potential welfare recipients (mainly young women) knew they were really going to have to work after two years, they might think twice before doing the things (mainly becoming single mothers) that put them on welfare in the first place. But Republican governors, it turns out, don't like work requirements much—in part because putting a welfare mother to work costs money (an extra $6,000, over and above the cost of benefits, to pay for supervisors and day care, according to the Congressional Budget Office).

Why raise state taxes to make welfare recipients perform community-service work—annoying public employee unions in the process—when you can do what Michigan's Republican Governor John Engler does: cycle recipients through inexpensive education and ''job search'' programs while claiming to be a great reformer? Engler's inflated reputation was recently punctured by journalist David Whitman (see ''Compleat Engler,'' TNR February 6). But that didn't stop him from leading the charge to gut the contract's work requirements when House Republicans decided, after the election, to negotiate with GOP governors over replacing the federal welfare program with a ''block grant'' to the states.

Engler's mission was successful. Look first at the numbers. The bill unveiled by Shaw requires that, in 1996, states place 2 percent of the welfare caseload ''in work activities.'' The requirement rises to 20 percent—not the contract's 50 percent—by 2003. In meeting this requirement, governors could count the 6 percent of recipients who already work at least part-time. Another 5 percent are already required to work by a 1988 reform law now in effect (which the Republican bill would repeal). That makes 11 percent already working. With a little creative bookkeeping—say, by counting all those who work, even for a few days, over the course of a year—most governors could meet the 20 percent ''work activity'' standard without doing anything they're not already doing.

But creative bookkeeping won't be necessary, because the Shaw bill lets the states decide what a ''work activity'' is. It needn't be actual work. Under the bill, a governor could declare, as Engler has, that checking a book out of a library counts as a ''work activity.'' Leafing through the want ads might also qualify, or circulating a résumé or attending a ''self-esteem'' class.

Republicans criticized President Clinton's ill-fated two-years-and-work plan because it only would have required approximately 500,000 recipients, or about 10 percent of the caseload, to be in a work program by 2003. But at least in Clinton's plan those 500,000 people would really have to be working. (An additional 900,000 or so would be in education and training programs.) The House Republicans say they will put ''at least 1 million cash welfare recipients in work programs by 2003,'' but the ''work'' could be completely phony. Workfake, you might call it.

It is all the more likely to be fake because the Shaw bill provides no money to make it real. The Contract with America, in a fit of honesty, earmarked $9.9 billion to pay for its work programs. The new bill contain no new funds. It does retain language that seems to requires states to make recipients work—sorry, ''engage in work activities''—after two years. But GOP aids admit this provision is ''mostly rhetoric'' not meant to be obeyed. There are no penalties for states that ignore it. (If it were obeyed, a lot more than 20 percent of the caseload would wind up ''working.'')

House Republicans don't even try very hard to pretend they haven't caved on the work issue. It was the price, they argue, of getting the governors to agree to a stingy ''block grant,'' and to accept the contract's cutoff of aid to young unwed mothers. Priorities! Bizarrely, the Newtoids sacrificed the popular parts of the contract (''make 'em work'') to save the unpopular parts (''cut 'em off''). It was too much even for some conservatives. Robert Rector, the Heritage Foundation's welfare expert, called the Shaw work provisions a ''major embarrassment,'' Jack Kemp issued a statement warning that Republicans were squandering welfare reform in the pursuit of a decentralized ''funding mechanism.''

Shaw now says he will try to shore up the work provisions—specifying what counts as a ''work activity,'' for example. But it may be difficult to convince the governors to endorse a major tightening—after all, the chief virtue of Shaw's bill, for them, was that it let them weasel out of the contract's work requirements.

It also may be too late. The premise of the GOP's new state-based welfare bill is that the nation's governors are reformist tigers who need only to be unlashed by the bureaucrats in Washington. But the governors have now shown their hand, and it's obvious to all that they have no appetite for radical reform especially reform based on work. Instead, they have with great effort turned the contract's ambitious plan into a bill that allows them to preserve the status quo. Even the controversial cutoff of young unwed mothers may be mainly an accounting trick. (States can simply pay the benefits out of their ''own'' funds.) The Republicans' welfare reform is looking less like a menace and more like a fraud.

SAVING LIVES—SETTING STANDARDS FOR DIALYSIS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1995

Mr. STARK. Mr. Speaker, there are approximately 200,000 Medicare beneficiaries in the Endstage Renal Disease [ESRD] Program, initially established by the Social Security Act §1881. This debilitating disease costs approximately $10 billion per year translating to a cost of $51,000 per patient.[1] Dialysis treatment for the ESRD patient is in essence an artificial kidney, and while there have been multitudes of research papers and numerous conferences addressing the issue of standards for dialysis treatment, the development of these standards has been a slow process. There is presently a need for quality assessment and continuous quality improvement (QA & CQI) within dialysis facilities, reformation of reimbursement schedules, improved data collection, and the introduction of industry-wide treatment standards for the benefit of the patient as well as the providers.

In recent years, numerous studies have shown relatively unexplained and dramatic differences in survival rates between kidney dialysis facilities. While it is often explained that facilities with higher mortality rates also treat sicker patients, this only explains part of the story. Mortality rates between facilities range from 0 to 43 deaths per 100 dialysis years, which means that there are other causes of death attributable to the treatment centers that cannot be explained by how sick their patients are.[2] To be blunt, some facilities are allowing their patients to die prematurely and needlessly. I believe that there is now a relative consensus among kidney disease experts that if certain quality standards are met during the course of dialysis treatment, a patient has an improved chance of prolonged survival.

Mortality rates for dialysis patients remain consistently greater than 20 percent.[3,4] Similarly, renal failure has a significant impact on the life expectancies of its victims. According to a recent NIH Consensus Panel, at 49 years of age, the average life expectancy of a patient with ESRD is 7 years, compared with 30 years for an age-matched person without ESRD.[5]

The mortality rates for patients with ESRD are increased for men, whites, elderly, diabetics, and patients with impaired functional status and malnutrition.[2,3,6–8] Survival is further complicated by the changes within the ESRD patient population and the growing list of comorbidities that contribute to their worsened state of health. Although differences between patient subgroups can result in variable risk factors for death, it seems that dialysis treatment times consistently effect the mortality rates of renal failure patients.

Dialysis functions as an artificial kidney by removing waste products from the blood, and the standard for dialysis should be expressed in terms of the formula KT/V. This formula has been offered as the most effective measurement in determining the adequacy of hemodialysis treatment. Most authors agree that the KT/V must be at least 1.0 or greater to achieve an adequate dose of dialysis, and many have concluded that levels as high as 1.2–1.4 are necessary to reduce mortality.

Therefore, I am introducing a bill today to require the Secretary of HHS to deny payment to a facility after January 1, 1997, if a majority of its patients do not receive a dialysis treatment which sufficiently cleans the blood. Hemodialysis must be supplied to achieve a delivered KT/V of 1.2. This bill will also establish contingencies whereby dialysis facilities could calculate treatment effectiveness using the urea reduction ratio [URR] instead of the KT/V. In simple terms, the URR measures the percentage of waste products cleansed from the blood over the course of a single dialysis treatment. The standards would be set to achieve a delivered URR of ≥ 65 percent. Although the URR does not have the accuracy

Footnotes at end of article.

of the KT/V, it requires only simple mathematics without the need for computer software and can provide a useful verification of treatment effectiveness. It is understood that there are other factors affecting the outcome of patients on dialysis; however, dialysis has become quantifiable and, therefore, should be utilized to effectively realize treatment goals.

Putting this in layman's terms, it is possible to measure the amount of dialysis a patient will receive by knowing the duration of treatment, the amount of waste products in the blood, and the quantity of blood that the dialysis filter will clear of those waste products during treatment. In essence, the longer a patient remains on a dialysis machine, the more likely they are to achieve the 1.2 figure.

It is appalling to think that some facilities would cut the amount of time on the dialysis machine in order to save money. Quality dialysis facilities have shown us that they can make money and still provide adequate time on the machine. Furthermore, statistical studies have demonstrated that increased time translates into less death. I believe there is enough medical consensus on this point that it would be improper for Medicare to continue to pay for facilities that do not provide adequate levels of dialysis as measured by the KT/V value. That is what my bill seeks to do: Force those facilities which are not providing sufficient dialysis to improve their level of care in accordance with a set of industry-wide standards, and ultimately stop the premature death of their patients.

Many studies have shown the correlation between increased treatment time and decreased mortality rates. [7,9–14] However, it has been argued that the combination of falling real-dollar reimbursement rates and increases in the required bundle of services have caused not only a decline in the amount of dialysis being delivered but also a reduction in the ability of dialysis centers to provide adjunct resources such as dietary counseling, social work management, mental health information, and vocational rehabilitation. As Congress considers this legislation, it also needs to examine and address this whole range of issues impacting on the lives of dialysis patients.

Medical science is continually evolving, of course, and future information may provide us with a better measure of dialysis or show us that 1.2 is not the right number to strive for. Therefore, my bill authorizes the Secretary to adjust the KT/V value or substitute a different formula if a report is sent to Congress explaining the wisdom of such a change. My bill also addresses the issue of monitoring dialysis facilities in order to assess their compliance with the above standards.

Once the progression to chronic renal failure has occurred, the main goals of the medical community should be to maintain and improve, if possible, the quality of life of the end-stage renal disease patient. Treatment plans should focus on prescription and delivery of adequate dialysis, attention to the social and psychological factors that influence survival and functional outcome of hemodialysis patients, provision of dietary counseling and management, assessment and reduction of malnutrition, control of hypertension, strict management of diabetes, maintaining vascular access, and provision of vocational rehabilitation.

In closing, Mr. Speaker, I urge the renal community to evaluate the need for reform within the dialysis industry to reduce the untimely deaths of so many patients with kidney failure.

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INTRODUCTION OF DERIVATIVES DEALERS ACT OF 1995

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 27, 1995

Mr. MARKEY. Mr. Speaker, today I am introducing the Derivatives Dealers Act of 1995. This legislation is aimed at providing a framework for improved supervision and regulation of previously unregulated dealers and assuring appropriate protections for their customers.

Today's newspapers report on the disastrous consequences of derivatives losses by Barings PLC—one of Great Britain's oldest merchant banks. According to these reports, Baring's has lost at least $950 million due to unauthorized derivatives trading by a 27-year-old trader in its Singapore office. This sorry episode underscores the risks inherent in failing to assure that regulators have adequate tools on hand to minimize the potential for OTC derivatives to contribute to a major disruption in the financial markets, either through excessive speculation and overleveraging, or due to inadequate internal controls and risk management on the part of major derivatives dealers or end users. Despite the best efforts of the Bank of England to rescue Barings, apparently the scale of the losses is so great that as collapse could not be averted. As a consequence, both European and Asian financial markets are in turmoil today. The bill I am introducing today will help assure that no similar disaster befalls American derivatives dealers or our financial markets.

Derivatives are financial products whose value is dependent on—or derived from—the value of some underlying financial asset such as a stock, bond, foreign currency, commodity, or an index representing the value of such assets. Some derivatives have been around for many years, such as the exchange-traded futures and options used by investors and dealers seeking to hedge positions taken in the stock and bond markets, or to speculate on future market movements.

Within the last few years, however, such exchange-traded futures and options have been supplemented by a vast and dizzying array of over-the-counter [OTC] derivatives. These include forwards, swaps, options, swaptions, caps, floors, and collars that may be linked to the performance of the Japanese stock market, the dollar-deutschemark exchange rate, the S&P 500, or virtually any other asset. Today, the total outstanding value of the principal underlying such over-the-counter derivatives is estimated to be over $12 trillion.

The dynamic growth of the OTC derivatives market is the direct result of developments in computer and telecommunications technology and breakthroughs in modern portfolio management theory that have created a new world of cyber-finance that is reshaping U.S. and global financial markets. These new financial instruments are an important component of modern financial activity and provide useful risk management tools for corporations, financial institutions, and governments around the world seeking to respond to fluctuations in interest rates, foreign currency exchange rates, commodity prices, and movements in stock or other financial markets.

While OTC derivatives are frequently used to hedge foreign currency or interest rate risks or to lower borrowing costs, there has been a proliferation of increasingly exotic, customized financial contracts or instruments that enable dealers and end users to make speculative synthetic side bets on global financial markets. This development has raised concerns over the potential for OTC derivatives to increase, rather than reduce risk of financial loss or contribute to a future financial panic. In addition, the concentration of market-making functions in a small number of large banks and securities firms, the close financial interlinkages OTC derivatives have created between each of these firms, and the sheer complexity of the products being traded raise serious concerns about the potential for derivatives to contribute to serious disruptions in the fabric of our financial system. My bill will help assure that Federal regulators have the ability to effectively monitor the activities of certain heretofore unregulated derivatives dealers.

In addition, my bill will help assure that our financial regulatory structure includes appropriate customer protections in place in the form of full disclosure, accurate financial accounting, appropriate sales practices, and restrictions against fraudulent or manipulative activity.

While the Barings PLC disaster underscores the some of the risks and dangers associated with derivatives, the Subcommittee on Telecommunications and Finance, which I chaired in the last Congress, has been closely monitoring the financial derivatives market for the