

Mr. REID. I ask one additional question of my friend.

Is the Senator aware that in 1980, just a few years ago, 40 percent of the people who were in convalescent homes were restrained—that is, strapped down with some type of narcotic, or they could not move; is the Senator aware of that?

Mr. KENNEDY. I am aware that it was a practice that was used far more often than was necessary. Both the physical restraints and also the sedation, as well as the failure of adequate personal hygiene care for seniors.

Mr. REID. Is the Senator aware since the national standards were established, that figure has dropped dramatically?

Mr. KENNEDY. That is my understanding.

The indications are that since the enactment of the 1987 standards, the overall health evaluation of seniors—basically we are talking about parents and grandparents—in nursing homes has substantially—substantially—improved.

That has been referenced during the course of this debate. It has never really been challenged.

I think not only have the improvements been affirmed by various studies, but one thing that you cannot evaluate in terms of dollars and cents is relieving the families of the anxiety and the concern that they have for their parents. When they visit and see how, in many instances, the parents were treated prior to the 1987 provisions it gave them anxieties. At the same time they had those anxieties they were out working, trying to provide for their children all the time while also worried about their parents.

They had some relief from that type of anxiety as a result of those standards, and under the Republican bill those standards have been altered or changed.

Mr. REID. Mr. President, I ask unanimous consent because of my interruption that the Senator from Massachusetts be allowed to finish his statement.

The PRESIDING OFFICER. The time of the Senator from Nevada has expired.

Mr. KENNEDY. I ask unanimous consent for 4 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, the Republican bill also wipes out the protections that have been in Medicaid since 1965 that prevent States from forcing adult children to pay the cost of their parents' nursing home bill.

The Republican bill even lets States put liens on the houses of nursing home patients, even if the spouse or children are still living there. Obviously, Republican family values stop at the nursing home door.

The amendment instruction which I will offer with others will eliminate these indefensible proposals from the bill.

What a travesty it is for the Republicans to call this a reconciliation bill.

The only reconciliation involved is between the Republican majority and their special interest lobbyist friends for whom this bill has become one large feeding trough.

Who knows what additional giveaways will be cooked up behind the closed doors of the conference committee? Adoption of the sense of the Senate which I will propose at the appropriate time is a needed step to expose those sweetheart deals and eliminate them from the bill. I will urge the Senate to adopt it. I wish we had the opportunity to debate this over the course of the week, but we have effectively been denied that opportunity.

Mr. President, finally, last week, when I raised the issue of balance billing on the Senate floor, the chairman of the Budget Committee contended that the Senate finance bill preserved this protection in Medicare.

Let me cite the facts. Section 1876 of the Social Security Act clearly prohibits physicians who are part of HMOs or competitive medical plan networks from making any additional charge to enrollees of that organization. This is in the first part of an instruction I will offer.

It further prohibits charges beyond what Medicare would normally allow even for services provided by physicians not part of the network.

What does the Republican bill do? First, it establishes a whole new category of private plans that can contract with Medicare, the Medicare Choice plans. The limitations in section 1876 do not apply to these new plans. Then it repeals section 1876 effective January 1, 1997, so the existing limitations do not apply to HMOs currently contracting with Medicare.

You can read all 65 pages of the subtitle of the bill establishing Medicare Choice. In fact, you can read all 2,000 pages of the Senate bill, and you will not find the applications that are there in section 1876(j).

You will not find them because they are not there. In fact, just to make the intentions of the authors of this program crystal clear, section 189f(c)(2)(B) of the new Medicare Choice program requires that enrollees be notified of their "liability for payment amounts billed in excess of the plan's fee schedule."

The Republicans trumpeted their achievement when they passed this bill, but they seem reluctant to go to conference. Do they want to divert public attention from the contents of the bill? What do they want to hide? I can understand their concern. There is much to be ashamed of in it and nothing to be proud of. It is a cruel and unfair bill, it hurts families, senior citizens, and helps only the wealthy and the powerful.

I hope we will have an opportunity to debate this sense of the Senate at an appropriate time so the Senate itself can make a judgment as to whether to endorse and support this sense of the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

THE RECONCILIATION BILL

Mr. WELLSTONE. Mr. President, first of all, let me just join with the Senator from Massachusetts, and I am sure the Senator from Arkansas. We are ready for the debate. We have some amendments with some instructions to conferees. I do not really understand what the majority party is afraid of. I think we ought to have the debate now.

The more I analyze what happened with this reconciliation bill, the more I begin to think about the importance of reform and making this a political process that is responsive to people in the country. I do not mean just the people who are the heavy hitters and the players and the big givers.

It is pretty amazing. The pharmaceutical companies come out great, the doctors come out great—though I want to make it clear there are many doctors in my State, I am very proud to say, who do not go along at all with these draconian cuts in health care. They know the pain it is going to inflict across a broad segment of our population in Minnesota.

But at the same time as we have some special interests that come out of this just doing great, we have a whole lot of people that get hurt. I just want to focus on one other part of this amendment, the language that will read that provisions providing greater or lesser Medicaid spending in States based upon the votes needed for the passage of legislation rather than the needs of the people of those States, that, in fact, this will be eliminated.

I, again, refer to the dark of the night, back-room deal sometime between 6 p.m. and 9 p.m. on Friday evening, where there was wheeling and dealing and Senators in Republican caucus did something like leverage votes for money for States, some kind of process like that. Because all of a sudden we saw a dramatic change in the formula of this amendment. My State of Minnesota wound up with \$520 million less between now and 2002 for medical assistance recipients.

In my State of Minnesota, and in every State across the land, when we talk about medical assistance we are talking about senior citizens. Two-thirds of the senior citizens in nursing homes in Minnesota rely on medical assistance. And I would far prefer we get serious about real health care reform, and having had a dad with Parkinson's and a mother who struggled with that as well, I am all for home-based care. I want people to be able to live at home in as near normal circumstances as possible, with dignity. But sometimes, for people, it happens. It happened with my parents, and we did everything we could to keep them in their homes, and we did for many

years. The nursing home at the end of their lives became a home away from home. For God's sake, who makes up those cuts?

In my State of Minnesota we are talking about 300,000 children; 300,000 children. Medical assistance is an important safety net to make sure that children receive some health care. As a former teacher, I want to make it clear to my colleagues: students—young students, children—do not do well in school when they go to school not having had adequate health care. If a child has an abscessed tooth because that child cannot afford dental care, that child is not likely to do well in his or her elementary school class.

For people with disabilities, this is an unbelievably important issue. It is a life or death issue. Because, for families who want to keep their children at home as opposed to institutionalization, the medical assistance payments are critically important. And, for adults who want to get up in the morning and be able to go to work and own their own small business, they need medical assistance for a personal attendant. That is a life with dignity. That is what medical assistance means to those people. So when we are talking about a formula and we are talking about statistics and we are talking about what happened to the State of Minnesota in the dark of night, Friday evening, we are talking about people's lives.

What this part of the amendment is going to say, when we give our instructions to conferees, is that we should undo, reverse those provisions which provided medical assistance spending to States based upon the votes needed for the passage of the legislation rather than the needs of the people in those States. I would like to debate that today, I say to my colleague from Arkansas. I am ready for that debate. I am ready for people to tell me who made that decision between 6 p.m. and 9 p.m. What committee met in public? Who voted? Who is held accountable?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WELLSTONE. Mr. President, I ask unanimous consent I have 30 more seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. What was the justification? I would like to hear a careful policy justification. But, Mr. President, I will not. Because there is none.

I know the pain this inflicts on citizens in my State and I intend to fight this all the way until we change this formula. And above and beyond that, I intend to be a part of an effort in this Senate to make sure that we do deficit reduction but we do it on the basis of a standard of fairness, not on the basis of responding to the people who give the money and who have the clout and have their way and are not asked to tighten their belts. But it is the children, the elderly, people with disabilities, the working families, the people who live in the communities.

We are going to change that one way or another. We are going to change that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

GATT AND PRESCRIPTION DRUGS

Mr. PRYOR. Mr. President, on three previous occasions I have come to the floor of the Senate to raise the issue that I wish to discuss today. Each time, I have laid out the facts of a particular problem—in fact, a loophole—which Congress created and which only Congress can fix.

Left uncorrected, that problem will cost the American consumer and the American taxpayer several billion dollars and will unjustly enrich a few pharmaceutical companies enjoying undeserved and unintended special treatment under the GATT treaty.

Over the next several days I intend to spend a few minutes to highlight a different and disturbing aspect of this GATT loophole. Let me give a brief overview, if I might, for those who may not be quite so familiar with the issue, despite the recent attention it has received in the media.

There is a very simple way to describe this issue. It is like a person walking down the sidewalk and finding a wallet. After picking it up, he learns it contains \$100 and the rightful owner's name. His question is, "Do I keep the money or do I return it to its rightful owner?"

In this case, this money clearly belongs to the American taxpayer and American consumer. But the drug companies are saying "OK, you made a mistake. But we want the money and we are going to try to keep it. Don't confuse us with the facts." That is what this issue is about.

I know that these companies have hired a swarm of lobbyists to come to Capitol Hill. I know today, in fact, that they are distorting the truth and they are deceiving the public. This issue is all about whether a handful of drug companies will be honest—whether they will give the figurative wallet back to its rightful owner, the American consumer and the American taxpayer.

Any fair-minded person will tell you that these drug companies are on the wrong side of this issue. But with billions of dollars at stake, how do you think they have responded? With a multimillion-dollar lobbying campaign. They are trying to pocket this undeserved profit.

It is difficult to believe the lengths they have gone to. They have distorted the facts. They are deceiving the public, and their unvarnished greed is on display for all to see.

The only argument they can come up with is, "Yes, we knew that a mistake was made. Yes, we haven't done a thing to deserve these billions of dollars. And yes, we know you are trying to correct this mistake. But, hey, this fell into our laps. We're going to do everything we possibly can to keep these dollars."

Mr. President, let me weave together the three pieces of this issue. It is pretty simple. I think they lead to a simple conclusion. We need to fix this problem, and we will let our colleagues judge for themselves as to whether they agree.

The first piece is the loophole itself. When Congress voted on the GATT treaty, we did two things. First, we extended all patents from 17 years to 20 years. Second, we stated in that treaty that a generic company in any industry—not just the drug industry—could market their products on the 17-year expiration date if they had already made a substantial investment and were willing to pay a royalty.

Why did we do this? We did a favor to patent holders, but in doing so, moved the goalposts on generic companies of all kinds. So we thought this was a fair deal and a good balance of commercial interests. It made sense and it makes sense today. Everyone bought onto it—the automotive companies, the computer companies, the high-tech companies, and yes, the drug companies.

Everyone said this is a fair way to solve this problem. We believed it to be fair. And we believed when we voted for the treaty that these provisions covered every person and every product, every company and every industry in the entire country. Everyone had to play by the same set of rules.

Let me emphasize: everyone includes our U.S. Trade Representative, Mickey Kantor. He has attested time and again that this was the case. Letters from Ambassador Kantor to myself and my colleague, Senator CHAFEE, are part of the RECORD.

But Mr. President, we were wrong. We made a mistake and accidentally left the prescription drug industry out of the picture. Today, they get the patent extension of 3 additional years. But the GATT loophole shields them from any generic competition whatsoever; in other words, a free ride for an additional 3 years with no competition—a monopoly, and exorbitant prices. The rest of us are playing by one set of rules while these few companies enjoy special treatment because of our mistake.

That is part 1, Mr. President, and that is the loophole. Part 2 is the windfall.

Mr. President, may I ask if there is additional time?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PRYOR. Mr. President, I ask unanimous consent—I see no other Senator seeking recognition—that my time may be extended for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, part 2 is the windfall itself.

Remember: The drug industry is the only industry which enjoys special protection because of this GATT loophole.