

capital gains from classification as passive income. Thus, such capital gains would be subject to a maximum 20 percent rate at the shareholder level in keeping with the 1997 tax law change. Excluding capital gains also parallels their treatment under the PHC rules.

SEC. 115. Allowance of charitable contributions of inventory and scientific property—This provision would allow the same deduction for charitable contributions of inventory and scientific property used to care for the ill, needy or infants for subchapter S as for subchapter C corporations. In addition, S corporations would no longer be disqualified from making 'qualified research contributions' (charitable contributions of inventory property to educational institutions or scientific research organizations) for use in research or experimentation. The S corporation's shareholders would also be permitted to increase the basis of their stock by the excess of deductions for charitable contributions over the basis of the property contributed by the S corporation.

SEC. 116. C corporation rules to apply for fringe benefit purposes—The current rule that limits the ability of "more-than-two-percent" S corporation shareholder-employees to exclude certain fringe benefits from wages would be repealed for benefits other than health insurance. Under this bill, fringe benefits such as group-term life insurance would become excludable from wages for these shareholders. However, health care benefits would remain taxable to the extent provided for partners.

Subtitle C—Taxation of S Corporation Shareholders

SEC. 120. Treatment of losses to shareholders—A loss recognized by a shareholder in complete liquidation of an S corporation would be treated as an ordinary loss to the extent the shareholder's adjusted basis in the S corporation stock is attributable to ordinary income that was recognized as a result of the liquidation. Suspended passive activity losses from C corporation years would be allowed as deductions when and to the extent they would be allowed to C corporations.

Subtitle D—Effective Date

SEC. 130. Effective date—Except as otherwise provided, the amendments made by this Act shall apply to taxable years beginning after December 31, 1999.

Mr. Speaker, I urge my fellow members to review and support the S Corporation Revision Act, which will help families pass their businesses from one generation to the next and create a level playing field for small business. I look forward to working with my colleagues on the Ways and Means Committee to enact this bill.

IN MEMORY OF REVEREND DAVID
LEE BRENT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 10, 1999

Mr. SKELTON. Mr. Speaker, it is with deep sadness that I inform the House of the death of Reverend David Lee Brent of Jefferson City, Missouri.

Reverend Brent was born on June 27, 1929, in Forest City, Arkansas, the son of Will B. and Annie Mae Foreman Brent. A 1946 graduate of Benton Harbor High School, he graduated from Moody Bible Institute of Chicago, in 1957. He received his master's degree and a doctor of theology degree from Southern Baptist Theological Seminary in Georgia.

Reverend Brent served on the St. Louis Council on Human Rights, served several churches in Missouri, was co-paster of Second Christian Church, Jefferson City, MO, and was a licensed insurance agent. He was the chief human relations officer for the Missouri Department of Mental Health of 28 years.

Reverend Brent was a leader in the community, in his church, and in the local National Association for the Advancement of Colored People (NAACP). Two years ago, he became the president of the NAACP in Jefferson City. Shortly after taking the helm, he was instrumental in the formation of a city task force to study racial tensions in the public schools. Reverend Brent was the co-founder of Christians United for Racial Equality and the Black Ministerial Alliance. Reverend Brent was also a member of Tony Jenkins American Legion Post 231.

I know the House will join me in extending heartfelt condolences to his family: his wife, Estella; his two sons, five daughters, one brother, three sisters, six grandchildren, and three great-grandchildren.

LAND TRANSFER FOR SAN JUAN
COLLEGE

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 10, 1999

Mr. UDALL of New Mexico. Mr. Speaker, today I introduce legislation, which is being co-sponsored by my colleague from New Mexico, HEATHER WILSON, that will transfer a parcel of federal property to San Juan College. This transfer will benefit the people of San Juan County, New Mexico—specifically the students and faculty of San Juan College. This legislation creates a situation in which all benefit by allowing the transfer of an unwanted federal land to an educational institution which can use it. Mr. Speaker, this is a companion bill to a bill that has already been introduced in the other chamber on January 21, 1999. The other bill was introduced by Senator DOMENICI and is also co-sponsored by Senator BINGAMAN, both of New Mexico.

This legislation provides for the transfer by the Secretary of Agriculture and the Secretary of Interior of real property and improvements at an abandoned and surplus ranger station for the Carson National Forest to San Juan College. This site is located in the Carson National Forest near the town of Gobernador, New Mexico. The site will continue to be used for public purposes, including educational and recreation purposes by San Juan College.

Mr. Speaker, the Forest Service has determined that this site is of no further use because the Forest Service has moved its operations to a new administrative facility in Bloomfield, New Mexico several years ago. Transferring this site to San Juan College would protect it from further deterioration.

In summary, this bill creates a situation in which all benefit: the federal government, the State of New Mexico, the people of San Juan County, and most importantly, the students and faculty of San Juan College. Since this legislation enjoys bipartisan support from the New Mexico delegation, I look forward to prompt consideration and passage of this legislation.

CLEVELAND HOMELESS PROJECT
LOSES FUNDS FROM HUD

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 10, 1999

Mr. KUCINICH. Mr. Speaker, I rise today to expose a great injustice that has been committed by a federal agency against a needy population in the Cleveland metropolitan area. The victims of this injustice are homeless men who are struggling to get back on their feet and put their lives together. And the perpetrator of this injustice is the U.S. Department of Housing and Urban Development (HUD).

I have an increasing interest in the activities of HUD, given my experience with the agency over the past two years. I find dealing with HUD as a Member of Congress to be a most frustrating experience, and I must imagine the frustration felt by our constituents, who do not occupy a seat in Congress, with the agency. Indeed, HUD is a disappointment. It represents why many Americans have lost confidence in their federal government.

Today I enter into the Congressional Record a collection of letters and newspaper articles that document the following situation in Cuyahoga County.

The Department of Housing and Urban Development recently refused to provide continued funding to a very worthy program for homeless men in Cleveland because of a "technical" mistake. This decision has been appealed, and HUD has summarily rejected the appeal.

Since 1995, the Salvation Army in Cleveland has operated an innovative program—the PASS Program—that helps homeless men by providing a place for them to live (for up to 12 months) while they put their lives back together. The program provides counseling, job training and transition skills. The program is one component of an entire "continuum of care" services that are coordinated by the Cuyahoga County Office of Homeless Services. The city and the county have developed an excellent system in which government officials and community organizations work together to develop a comprehensive response to the homeless problem in the metropolitan area. The County considers the Salvation Army program as their highest priority for funding.

As an innovative effort, the PASS Program received demonstration project funds from HUD for several years. By the time they applied for another year of funding—a request of \$1.5 million to support their program—this particular HUD demonstration program had been terminated. The County and the Salvation Army realized that this had happened, and contacted the appropriate HUD office in Columbus, Ohio to seek guidance.

County staff asked HUD staff whether their program would be considered a "New" program or a "Renewal." According to the County, HUD staff did not respond one way or another. So the applicant assumed that this would be considered a Renewal, and completed the paperwork accordingly. The application was submitted to HUD in Washington, and became one of 2,600 projects that sought funding.

On December 23, 1998, when the President announced homeless grants across the country, Northeast Ohio received \$9.4 million for a

variety of HUD programs by various community-based organizations. Cleveland officials were shocked to learn that the PASS Program—their top priority—would not be funded. When contacted for an explanation, HUD officials explained that they could not consider the program because the applicant had committed a “technical error” and submitted the wrong form.

When I met personally with top HUD officials, I was told that the reason this program was not funded was because the applicants had submitted the wrong budget form. The wrong budget form! Therefore, HUD could not consider the proposal and could not tell the applicant that this error had been made until after all of the grants had been announced. This is a great injustice, Mr. Speaker, and I urge the Congress to investigate this and other examples of abuses at HUD.

The following documentation includes letters from the Northeast Ohio Coalition for the Homeless and Cuyahoga County Commissioners Tim McCormick, Jane L. Campbell and Jimmy Dimora.

NORTHEAST OHIO COALITION
FOR THE HOMELESS,
Cleveland, OH, December 24, 1998.

Secretary ANDREW CUOMO,
Department of Housing and Urban Development,
Washington, DC.

Dear Secretary CUOMO: As a member of the Cleveland/Cuyahoga Continuum of Care process, we once again want to register our strongest dissatisfaction with the federal funding process conducted by the Department of Housing and Urban Development. The Coalition is a collaboration of homeless people, members, and advocates. We spent a great deal of staff time and energy in getting the opinions and “expert” testimony of homeless people to be a part of the process. We staged regular meetings with those on the streets to develop a priority list of gaps in the community, and then compiled that information for the HUD application. The two projects that were skipped by officials in HUD Washington were two important projects for the community.

This is the third year in a row that Cleveland/Cuyahoga County has seen the priorities of the community disregarded by officials in Washington and valuable resources that were intended to get homeless people into stable housing were denied our community. Again, we ask if your agency is being faithful to the Congressional mandate to return control of these funds to the local community? It is disingenuous to champion local control and yet every year discard the priorities of the local Continuum of Care coordinating body. We would have hoped that HUD would have gone to great lengths to fund a project like the Salvation Army's PASS program, which was deemed by the Continuum of Care committee as Cuyahoga County's highest priority for funding of Recovery Resource's project which was our second highest rated new project.

We were unhappy with the process last year, and did not see any relief from the appeal process. This year the situation demands your prompt attention. This year we were denied funding for a program that currently exists in the community which was developed as the foundation for the services to single men. You will see Cleveland/Cuyahoga County back significantly in addressing the needs of homeless men by withdrawing funding from the PASS program. The other program, submitted by Recovery Resources, was an attempt to provide assistance to people coming out of treatment to maintain sobriety by funding a stable living environ-

ment. This is critical especially in light of the recent report by the National Coalition for the Homeless which found homeless people, in many cases, leave treatment and are forced to return to the streets and the drug and alcohol culture.

We once again renew our call for some changes in the HUD Continuum of Care process in Washington so that the local coordinating body actually makes the decisions on where Federal funds are disbursed in Cuyahoga County. We ask that the priorities of the local community including homeless people be respected. There needs to be communication between HUD and the applicant before there is a public announcement if one of the projects that the community has deemed to be a high priority is to be skipped. We also believe that there should be a separate application process and deadline for renewal projects that does not overlap with the new or expanding project's applications so that locally, one committee can evaluate the impact of existing projects, and another entity can work on priorities for new or expanded projects.

You said in your press conference that the Continuum of Care has been successful because it brings together non-profit groups, the private sector and local and state government in a partnership to design local programs to help homeless people to become self sufficient. In Cleveland, we have worked tirelessly to put in place this collaboration and expanded it to include homeless people in the process and yet we have repeatedly seen HUD discard our recommendations. We cannot build an effective continuum of care if our priorities are ignored by HUD Washington.

Sincerely,

BRIAN P. DAVIS,
Executive Director.

[From the Plain Dealer, Dec. 24, 1998]
FEDERAL FUNDING CUT FOR HOMELESS
PROGRAM IN CUYAHOGA COUNTY
(By Stephen Koff)

WASHINGTON.—President Clinton yesterday announced \$850 million for groups across the country that help homeless people, including \$9.4 million for Northeast Ohio, but the program ranked as most important by Cuyahoga County was cut from federal funding.

Salvation Army's PASS program in Cleveland, which helps homeless men with shelter, counseling, job training and transition skills, will have to close if the Clinton administration does not change its mind, said Bill Bowen, director of professional and community services for Salvation Army of Greater Cleveland.

Neither the Salvation Army nor advocates who sent the application for funding could understand why PASS (which stands for Pickup, Assessment, Shelter and Services) did not get the \$1.5 million it requested.

But Sandi Abadinsky, a spokeswoman for the U.S. Department of Housing and Urban Development, said PASS was rejected because it previously was funded as a demonstration, or tryout, program, getting seed money in 1995. Such programs cannot assume their funding will continue when their tryout is over.

“They knew when they were receiving the funding that they were receiving seed money,” Abadinsky said.

Brian Davis, executive director of the Northeast Ohio Coalition for the Homeless, who helped coordinate the applications sent by Cuyahoga County, said PASS should have qualified under HUD's Continuum of Care grants.

They reward efforts to stabilize the lives of homeless people through assessment, counseling, training and transition into housing.

Despite HUD's insistence otherwise, Davis said homeless advocates understood from HUD that continuing projects like PASS could still get money by applying under Continuum of Care.

The \$1.5 million in the application represented PASS' entire budget, Bowen said. “We'll probably have to close the program” without the grant, he said. “But I'd rather not be gloom and doom about that.”

Cuyahoga County homeless advocates plan to appeal the rejection, and Bowen said he would talk to officials this weekend to see about getting the funding.

Groups that got HUD funding in Cuyahoga County are: Transitional Housing, Inc., \$360,583; Care Alliance, \$1.6 million; Volunteers of America, \$629,103; Continue Life, \$235,302; Family Transitional Housing, \$111,542; YMCA of Greater Cleveland's Y-Haven 1, \$244,307; Cuyahoga Metropolitan Housing Authority, \$529,714; Mental Health Services Inc., \$835,026; EDEN Inc., \$244,954; Joseph's Home, \$1,029 million; Hitchcock Center for Women, \$764,073; Cornerstone Connection, \$150,472; Inter-Church Council of Greater Cleveland, \$524,194; YWCA of Cleveland, \$11,522; and East Side Catholic Shelter, \$522,162.

The funding will help Transition Housing with planning for treatment and shelter programs for the 64 women who participate at any given time, said director Kathleen Fant. “It's to help these women get on their feet again, and stay there,” she said.

“This is definitely the kind of news I like to hear,” said Don See, executive director of East Side Catholic Shelter, who like most of the others had not been notified by HUD of its awards yesterday.

HUD Secretary Andrew Cuomo yesterday said 460 communities submitted applications representing 2,600 programs or projects. Of those, HUD awarded 307 applications with 1,400 projects.

Besides the program grants, HUD announced grants for emergency shelter: \$300,000 for Akron, \$1.08 million for Cleveland, \$91,000 for Lakewood and \$115,000 for Cuyahoga County.

[From the Plain Dealer, Jan. 11, 1999]
LOSS OF FUNDS JEOPARDIZES SHELTER
(By James F. Sweeney)

A technical mistake in an application for federal funding could lead to the closing of a Cleveland homeless shelter.

“It's heartbreaking,” said Sandi Abadinsky, spokeswoman for the U.S. Department of Housing and Urban Development in Washington.

HUD last month rejected a Salvation Army of Greater Cleveland application for \$1.5 million to keep its PASS homeless shelter open for three years. The Cleveland/Cuyahoga County Office on Homeless Services, which prepared the application, asked for funding under the wrong program, Abadinsky said.

The shelter, which houses 47 men in a building behind Salvation Army headquarters on E. 22nd St., has been praised in its two years of operation for its innovative approach in breaking the cycle of homelessness.

“This program has seen me through a lot of disturbances in my life,” said Clyde Owens, a resident of the PASS program for 16 months. “If they want to shut this down, I feel sorry for the next man.”

PASS stands for Pickup, Assessment, Shelter and Services.

Local officials expressed surprise and anger that a technicality could endanger the shelter.

The Office on Homeless Services should have been given the chance to correct the mistake, said Brian P. Davis, executive director of the Northeast Ohio Coalition for the Homeless.

"We'll keep working on it," said William V. Bowen Jr., director of professional and community services for the Salvation Army. "We'll appeal."

Ruth Gillett, director of the homeless services office, could not be reached for comment late Friday.

While city and county officials appeal the decision, Salvation Army directors will meet over the next weeks to decide what to do. Federal funding ran out at the beginning of the month, and the shelter is counting on a promised \$133,000 from the city to stay open through March.

The failure to get the grant shocked Salvation Army officials last month. They have suspended a two-year search for a larger building in which to expand the program and are scrambling to save what they have.

PASS is not like other shelters, where the goal is to keep the homeless alive by providing a warm place to sleep and something to eat.

It is home for residents for three months to a year or more, as long as it takes them to get their lives under control, to find jobs and save enough money to rent places of their own.

The residents, many of whom are chronically homeless, are given a range of services.

Those with drug and alcohol problems are sent to detox centers. Counselors and tutors are brought in. The staff helps residents open savings accounts and find jobs and permanent housing.

All the Salvation Army asks is that the men be willing to change.

From its start in October 1997 to Sept. 31, 1998, 117 men were discharged from the program, 60 of whom were placed in permanent housing, according to Salvation Army figures. Thirty-nine of the 60 were still in housing as of last October.

"Those are pretty good numbers, given the population they're working with," said Bill Faith, executive director of the Coalition on Homelessness and Housing in Ohio, a Columbus-based advocacy group.

Some residents volunteer to help on the food and clothing van the Salvation Army sends out nightly to homeless gathering sites. Others staff donation kettles, sometimes to help drive aggressive panhandlers out of a neighborhood.

Faith's high opinion of the program was shared by a local committee that advises HUD on which projects should be funded. Continuing the Salvation Army program was its top recommendation.

HUD awarded a total of \$9.4 million for homeless programs in Northeast Ohio.

HUD spokeswoman Abadinsky said the Office on Homeless Services applied for renewal funding under a program that no longer exists. It should have applied as a new program for another source of funding, she said.

"They just didn't do it 100 percent correctly, and that's why they weren't eligible," Abadinsky said.

HUD rules do not allow the agency to notify applicants of mistakes in their applications, she said.

Though the Salvation Army must wait a year before applying for more funding, it could look for money from \$1.2 million in emergency shelter funding awarded by HUD to the city and county, Abadinsky said.

Davis, of the Northeast Ohio Coalition for the Homeless, said shifting those funds would hurt other homeless programs.

"If we were to take funding from another source from HUD, that would close another shelter," he said. "Do you want to take money from the domestic violence shelters and keep open PASS?"

County commissioners said they are determined to save the program.

"It appears to me we have heard a bureaucratic reaction rather than a compassionate reaction," said Commissioner Jane Campbell. "This is a time when we need a creative response from HUD."

She and Commissioner Timothy McCormack said they would look for other funding if HUD does not change its mind.

"It is of the utmost importance to me," McCormack said.

Commissioners have sent a letter to HUD Secretary Andrew Cuomo asking him to reconsider and fund PASS.

City officials, who have lobbied for HUD funding for the program, did not return phone calls.

Palmer Mack, 55, joined PASS in mid-October after losing his apartment and his job. Heart disease keeps him attached to an oxygen tank, the tubes running under his nose and over his ears.

Mack said the program had saved his life. Shutting the shelter would be a tragedy, he said.

"This is really like the Rolls-Royce of this kind of program," he said.

CUYAHOGA COUNTY OF OHIO,

January 21, 1999.

Re Appeal of 1998 Supportive Housing Program Decision.

FRED KARNAS,

Assistant Secretary, Department of Housing & Urban Development, Washington, DC.

DEAR MR. KARNAS: Thank you for your communication with us as well as that of others who have contacted you on behalf of Cleveland's homeless population. We write this to respectfully and in a formal manner on appeal HUD's rejection of the Number One ranked project in Cuyahoga County, Ohio 1998 Supportive Housing Program (SHP) application.

Cuyahoga County, Ohio is the Applicant for this project, the Salvation Army of Greater Cleveland is the Project Sponsor and the name of the Project is the PASS Program (Pick-up, Assessment, Services, and Transitional Shelter). Our staff consulted with your Columbus, Ohio office in preparing the 1999 application. We forwarded the application based on this guidance and on communication between Secretary Andrew Cuomo and Mayor Michael White. We were surprised to learn of this vital project's rejection based on a technicality. We now want to work with you to resolve this problem.

We have been advised by staff of your office, that the Project was rejected for the following reason: "The Project was submitted under the wrong component of the application. Specifically, it was submitted as a RENEWAL Project, as opposed to a NEW Project."

The basis of this appeal rests on the argument that our staff preparing the application sought technical assistance from HUD Columbus staff, and were not advised that they were applying under the wrong component.

Cuyahoga County staff, through the Cleveland/Cuyahoga County Office of Homeless Services (OHS), work closely with City of Cleveland, Community Development staff to develop and coordinate a coherent Continuum of Care strategy for homeless services in the community. The OHS is administratively housed within the County governmental structure, however, the City of Cleveland shares the operating costs of the Office.

In the Spring of 1998, Mayor Michael White wrote to Secretary Cuomo stating that the community understood that Innovative Homeless Demonstration Program (IHDP) projects were not eligible for renewal from that source. Mayor White's letter explained the importance of the PASS project to the Continuum of Care strategy for addressing

the needs of the chronically homeless male population. Mayor White went on to ask if the upcoming Super NOFA (Notice of Fund Availability) would offer an opportunity for continued HUD support for the PASS Program.

Secretary Cuomo's response, quoted herein, was ". . . unfortunately there are no IHDP funds available to renew your project. However, two other sources are possibilities for funds. First, the Supportive Housing program (SHP) could be a source of funds. . . ." Later in the same paragraph, Secretary Cuomo states, "While SHP grants are commonly for new activities, funds can also replace the loss of nonrenewable funding from private, federal, or other sources not under the control of State or local government."

The letter does not direct the community to apply as a New project. Local interpretation of the information was that while the PASS Program could not be renewed through IHDP funds, eligible program activities could be renewed through the Supportive Housing Program. Given staff awareness of the prohibition against submitting existing projects for New funding through the SHP, that a Renewal was being suggested is the only interpretation staff would have made. Unless the letter had stated clearly that the project should be submitted as NEW, staff would not have pursued that approach. At no time was the community ever informed by the Columbus HUD Office that our approach was incorrect.

The Office of Homeless Services has prepared the application from Cleveland/Cuyahoga County every year since 1994. In 1998, the final application included 18 projects. The process to develop and complete the application included: establishing a representative, Ad Hoc committee to oversee the application process, holding community meetings to identify and rank gaps in services, a community review and ranking, of the existing projects which were seeking renewal, providing technical assistance to agencies submitting renewal or new projects, review and ranking of all new projects, final assembly and submission of the application.

Because the County is the Applicant for the PASS Project, there was further, direct communication with the Columbus HUD Office concerning filling out Sections of Exhibit 2. Again, let us be clear that the County was proceeding with the Exhibit as a RENEWAL. Section D. of Exhibit 2 asks that the applicant indicate the Program Component. Cuyahoga County checked the Renewal box. Section E follows with the parenthetical note ". . . To be completed for new projects only". As a Renewal applicant, the County followed this directive and went on to the next applicable Section.

While filling out Section J. the Renewal Budget, staff called the Columbus HUD Office for assistance. The original IHDP awards were not broken out according to the SHP budget categories of Supportive Services/Operating/etc. Staff specifically asked for direction in formatting the IHDP budget onto the Renewal Budget Form. HUD staff indicated that they didn't know how to do this. They never indicated that the wrong Budget Form was being used.

Without an immediate response from HUD as to the "right" way to do something, and with the application deadline approaching, staff formatted the information according to the understanding staff has as to HUD's definitions of what constitutes Supportive Services and Operating costs. This information was faxed to the HUD Columbus Office with a request for a response. When a response was not received, staff assumed that either the proposed format was acceptable, or that if it was not exactly correct, it could be corrected during the Technical Submission process.

In the course of developing this appeal, it has been suggested that HUD staff are prohibited from providing technical assistance to applicants once the Notice of Fund Availability (NOFA) has been published. Clearly, HUD cannot write applications for agencies. However, advising that an incorrect form is being utilized would seem to fall into a category of "general information". Moreover, there has been a practice by the HUD Columbus staff to assist applicants in clarifying application related questions.

It has been the experience of this community that HUD staff are dedicated professionals, who see their role as facilitating community planning efforts. Regardless of the outcome of this appeal, we will continue to build a partnership with HUD to promote this objective.

We look forward to hearing from you at your earliest convenience.

Sincerely,

TIM McCORMACK, *President*,
JANE L. CAMPBELL,
JIMMY DIMORA,

Cuyahoga County Board of Commissioners.

WHAT AETNA ISN'T TELLING YOU ABOUT THE GOODRICH CASE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 10, 1999

Mr. STARK. Mr. Speaker, in recent weeks, Aetna has sent Members' offices criticisms of a recent California court case in which a jury has awarded \$120 million to a widow for the economic loss and pain and suffering caused by the Aetna HMO's treatment of her husband, David Goodrich. Aetna is saying the facts do not support—and argue against—allowing HMO members to sue their HMO.

Ex parte communications about a lawsuit—and Aetna says it is appealing—are always questionable.

Aetna, of course, has a ton of money to lobby Congress. The Goodrich family has no Washington lobbyist. Therefore, I asked the Goodrich attorney to comment on Aetna's mailing to us.

Guess what? There is another side to the story.

Following is a side-by-side prepared by the plaintiffs. Also, I am including in the RECORD a press release from California's Consumers for Quality Care, which makes the excellent point that the CEO of Aetna, who loves to write long editorials about quality, has thrown a temper tantrum, blaming the "not intelligent enough" jurors. It would be far better for him to look within to the quality of his operations. Is this really the kind of CEO we would want as head of the nation's largest health insurance company?

AETNA MISLED CONGRESS ABOUT FACTS OF GOODRICH CASE: INVESTIGATIONS, WITHDRAWAL OF FEDERAL CONTRACTS CALLED FOR

BOARD OF AETNA ALSO ASKED TO FIRE C.E.O. HUBER OVER REMARKS

Consumers For Quality Care, the national health care watchdog group, today called upon Congress to convene hearings and suspend Aetna's government contracts over the HMO's attempts to mislead Congress about the facts of the landmark *Goodrich vs. Aetna* case in order to prevent HMO reform.

Aetna recently sent a statement to Congress distorting the facts of the case, in

which a San Bernardino jury issued a \$120 million rebuke of the HMO's conduct toward District Attorney David Goodrich. Goodrich died of stomach cancer after a two and one half year ordeal trying to get Aetna to approve cancer treatment recommended by his Aetna doctors.

In a letter to members of the United States House of Representatives and Senate today, Consumers For Quality Care urged action against Aetna because "Aetna's conduct . . . shows a contempt both for the Court, the American justice system and for Congress." A point-by-point refutation of Aetna's statement to Congress about the case, based on the court record, was also released. (Available upon request)

"We intend to make a federal case out of Aetna's misrepresentations and remorseless defiance of the civil jury and their authority," said Jamie Court, director of Consumers For Quality Care, a health care project of the Foundation for Taxpayer and Consumer Rights. "It should be federal case when the nation's largest HMO misleads Congress and thumbs its nose at the civil justice system. Aetna's defiance of civil society's dictates should bolster the case for giving to all patients the right to sue that Mrs. Goodrich has."

The Goodrich case exposed the disparity in federal law between government workers, like the Goodrich family, who can sue their HMO and private sector workers, who are prevented from suing for damages unless Congress changes the Employee Retirement Income Security Act of 1974 or ERISA.

HUBER SHOULD BE FIRED

Consumers For Quality Care also wrote Aetna's Board of Directors asking it to fire Chief Executive Officer Richard Huber over his remarks attacking Goodrich's widow.

Huber responded in the Hartford Court to the verdict. "This is a travesty of justice. You had a skillful ambulance-chasing lawyer, a politically motivated judge and a weeping widow." Later, a Los Angeles Times columnist reported, "he [Huber] expanded his complaints, telling me that juries are customarily not intelligent enough to consider complicated contractual issues and that this one in particular was too ill-informed, as a result of the judge's evidentiary rulings, to render a sound verdict."

"We have been astounded at your Chief Executive Officer's lack of remorse over the handling of David Goodrich's care and ask you to act immediately to remove him," wrote Court. "If Aetna is dedicated to making things better for patients, Mr. Huber does not belong as your C.E.O. The true travesty of justice would be if Mr. Huber remains at the helm of Aetna and company policy continues to be indifference to its dying patients and to juries that condemn such policies."

The Foundation for Taxpayer and Consumer Rights is a tax-exempt, nonprofit, nonpartisan organization dedicated to advancing and protecting the interests of consumers and taxpayers.

THE FOUNDATION FOR TAXPAYER AND CONSUMER RIGHTS,

Santa Monica, CA, February 9, 1999.

The True Travesty of Justice.

AETNA INC.,
Hartford, CT.

DEAR MEMBERS OF THE BOARD OF DIRECTORS: The origin of change is regret. We have been astounded at your Chief Executive Officer's lack of remorse over the handling of David Goodrich's care and ask you to act immediately to remove him.

As you may know, Goodrich, a district attorney who risked his life by prosecuting gang violence, died of stomach cancer after a

two and one-half year ordeal trying to get Aetna to approve cancer treatment recommended by his Aetna doctors. A San Bernardino County jury issued a \$120 million rebuke of your company's handling of Goodrich's treatment.

Unfortunately, your C.E.O., Richard Huber, responded to the verdict without remorse: "This is a travesty of justice. You had a skillful ambulance-chasing lawyer, a politically motivated judge and a weeping widow." (The Hartford Courant, January 22, 1999)

Does Mr. Huber really deny the right of a widow to weep for her husband?

Later, a Los Angeles Times columnist reported, "he [Huber] expanded his complaints, telling me that juries are customarily not intelligent enough to consider complicated contractual issues and that this one in particular was too ill-informed, as a result of the judge's evidentiary rulings, to render a sound verdict." (Kenneth Reich, "Verdict Against Aetna Is An Omen Of Clash Over HMOs," Los Angeles Times, Thursday, January 28, 1999, p. B5.)

Is Aetna really this contemptful of the civil justice system and its ethic of responsibility, or are these Mr. Huber's own views?

We had hoped that \$116 million in punitive damages might be enough to cause Aetna to reconsider how it deals with patients like David Goodrich. The message from the jury was that Aetna must do better. But Mr. Huber's remarks suggests that in the future Aetna's patients will get no better treatment at Aetna than David did.

The Goodrich jury felt that Aetna did not respond quickly when a patient's life hung in the balance and that Aetna ignored its own doctors' recommendations for Mr. Goodrich's care. In one instance, it took Aetna four months to approve high-dose chemotherapy and Goodrich could no longer benefit. Company and industry standards claim a 24 to 48 hour turn-around time.

Is this the appropriate standard of care at Aetna?

When it was clear Mr. Goodrich could wait no longer, Goodrich's doctors ultimately acted without approval. The public servant died believing he had left his wife with \$750,000 in medical bills. While Aetna claimed, in a letter to Congress, that the treatment was paid for by "another insurance company," in fact the taxpayers picked up the bill. Mrs. Goodrich was a Yucaipa school teacher and the school district paid \$500,000 of David's bills, only under the threat of litigation and with the understanding the cost would be repaid out of any Aetna verdict.

If Aetna is dedicated to making things better for its patients, Mr. Huber does not belong as your C.E.O. The true travesty of justice would be if Mr. Huber remains at the helm of Aetna and company policy continues to be indifference to its dying patients and to juries that condemn such policies.

We urge you to remove Mr. Huber as a signal that pro-patient reforms at Aetna will be forthcoming and that no other family will have to endure what the Goodrich family has.

Sincerely,

JAMIE COURT.

THE FOUNDATION FOR TAXPAYER AND CONSUMER RIGHTS,

Santa Monica, CA, February 9, 1999.

AETNA HAS MISLED CONGRESS & THE PUBLIC

DEAR MEMBER OF CONGRESS: Attempting to stymie HMO reform, Aetna, the nation's largest HMO, has misled you in a recent communique defending its treatment of cancer patient David Goodrich. The San Bernardino County district attorney died after a two and one half year ordeal trying to