career. He openly questioned the role of black troops fighting for a democracy that promoted segregation. He suggested in editorials that black troops should resist such discrimination, and in two instances there were demonstrations at Army camps where Mr. Howard was stationed in England and in the United States. Some changes were initiated by military authorities, but it wasn't until May 1948, when President Truman signed Executive Order No. 9981, that segregation in the military was ended.

As an aide to Gen. Benjamin O. Davis, the first African-American general in the U.S. Army, Howard served on the staff of the Supreme Headquarters Allied Expeditionary Force until being discharged at the war's end.

Upon returning to Howard University, Charles Howard worked with the lawyers and participated in the university's support of the Brown versus Board of Education case, the landmark case that desegregated the Nation's public schools.

Mr. Howard began practicing law in 1955, after earning his law degree in 1954 from Howard University Law School and an international law degree from New York University in 1955. Soon after his graduation from law school, Mr. Howard quickly developed a reputation as a fearless and colorful defense lawyer. Lawyers impressed by his brilliant defense techniques and verbal pyrotechnics often crammed courtrooms to watch him try a case.

''He was certainly tenacious and he wasn't opposed to taking the bench over difficult cases,'' said Gloria E.A. Toote, a Harlem lawyer who held positions in the Nixon, Ford, and Reagan administrations and got to know Mr. Howard when they were students at Howard University. ''Once he was committed, it became a moral commitment, and he wouldn't let go. He'd work until he dropped from sheer exhaustion.''

In the late 1960's, he established Howard and Hargrove, Maryland's first black corporate law firm, which was in the American Building on Charles Street. Later, Howard formed Howard, Brown, and Williams where he retired in 1985.

In 1966, Mr. Howard ran for the House of Delegates and lost, but his race signaled the developing black presence on the city's political landscape. He later helped elect his brother, Joseph C. Howard, to the supreme bench of Baltimore City in 1968. Judge Howard, who was later appointed to the U.S. district court, is now retired.

Charles Howard, Jr.'s professional memberships included the Professional Ethics Committee for Legal Aid to the Indigent, the National Bar Association, the American Society of International Law, and the Maryland State Bar Association. He was active in the NAACP, the YMCA, and the Boy Scouts of America. He was also a member of the board of Arena Players Theater Co. and in 1971 was named to the board of the Maryland Public Broadcast Commission by Gov. Marvin Mandel. He also was acting president of Bay College until the school closed in 1978. Mr. Howard was also a member of the St. James Episcopal Church where was an active member.

In recent years, Mr. Howard was most concerned about economic alternatives to welfare dependency and worked with and counseled black businessmen. A popular tenet of Howard's was that the successful had an obligation to help those in need.

On December 14, 1996, Charles Preston Howard, Jr. died of a heart attack at his home in the Ashburton section of Baltimore, MD at the age of 75. He is survived by his wife of 6 years, the former Jewel White, two sons, Charles P. Howard III of Los Angeles and Charles Lattimore Howard of Philadelphia, a daughter, Catherine Marie Howard of Baltimore, and another brother, Dr. Lawrence Howard of Baltimore.

Charles P. Howard and his dedication to the African-American community will certainly be missed in Baltimore and across the country. He was an outstanding American who labored tirelessly to ensure that every person enjoyed the benefits of true American values.

According to family members, ''Charlie's life work seemed to always orbit around the critical importance of building and nurturing community institutions for the future of humanity everywhere.''

MEDIGAP PROTECTION ACT OF 1997

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. BENTSEN. Mr. Speaker, I rise today to introduce vital consumer protection legislation for Medicare beneficiaries. The Medigap Protection Act of 1997 will provide real freedom to senior citizens to choose between traditional fee-for-service Medicare and managed care Medicare programs without risk of penalty. It does so by guaranteeing access to Medigap supplemental insurance for seniors who choose to enroll in fee-for-service Medicare after participating in Medicare managed care plan.

Congress this year will again debate fundamental changes to the Medicare System. Previous reform proposals would strongly encourage Medicare beneficiaries to enroll in managed care plans. Nationwide, approximately 13 percent of the Medicare population already is enrolled in managed care options. I support providing freedom of choice for senior citizens, but this choice must be real and not coerced. As more senior citizens enroll in managed care plans, we need to ensure that they can reenroll in traditional Medicare without losing benefits or paying a financial penalty.

Under current law, Medicare beneficiaries can enroll in either a managed care product or traditional Medicare Program. Many enrollees in traditional Medicare choose to purchase supplemental insurance policies, often called Medigap, to cover the cost of copayments, deductibles, and other uncovered benefits such as prescription drugs. When Medicare beneficiaries make this initial choice, current law protects them by requiring all insurers to sell Medigap insurance. Regrettably, this consumer protection is not provided after the initial enrollment period.

This legislation would require guaranteed issue of Medigap policies for those senior citizens who choose to enroll in traditional Medicare after leaving a managed care Medicare Program. This bill would require any issuer of Medigap insurance to provide an annual enrollment period of 30 days for those Medicare beneficiaries who reenroll in the traditional Medicare Program. The Secretary of Health and Human Services would issue regulations to enforce this act. The bill would be become effective 90 days after enactment.

Without this protection, senior citizens do not have a real choice. In addition, many senior citizens are not aware of this lack of protection and may enroll in managed care plans without knowledge of this problem. Consumers should be able to choose plans without financial coercion or penalties, such as the inability to purchase Medigap insurance. For many senior citizens, Medigap benefits are extremely important because traditional Medicare does not provide prescription drug coverage. I want to ensure that Medicare beneficiaries make a choice between equal options. This legislation also provides greater freedom and choice for seniors without forcing them to cover the costs of higher copayments, deductibles, and prescription drugs.

This is another common sense health care reform we can pass immediately that should be supported on a bipartisan basis. President Clinton endorsed this provision as part of his 1997 budget. We need to pass commonsense, reasonable legislation that will improve the Medicare Program so senior citizens are protected and have real choice. I urge my colleagues to join me in this effort to strengthen consumer protections for Medicare beneficiaries.

COURT RULING SHOWS WHY CONGRESS MUST CLOSE MEDICARE HOSPITAL OUTPATIENT DEPARTMENT LOOPHOLE THAT HURTS SENIORS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. STARK. Mr. Speaker, today, Representative BILL COYNE and I have introduced legislation to close the Medicare Hospital Outpatient Department [HOPD] loophole that is costing retirees and the disabled billions and billions of dollars a year in improper charges.

On June 25, the U.S. Ninth Circuit Court of Appeals denied a class action motion to require hospitals to charge no more than a reasonable amount for services rendered in HOPD's under Medicare part B.

To quote from the Bureau of National Affairs' description of the case:

> At the center of this case is a fight over cost sharing, and in particular, how much of the cost beneficiaries should be responsible for,'' the appeals court wrote. It explained that under the basic formula for Part B services, a beneficiary must pay 20 percent of the reasonable *charges* for the items and services rendered and the federal government pays a lesser of the reasonable *cost* of such services or the customary charges, but in no case may the payment exceed 80 percent of the reasonable *cost*. [emphasis added]
>
> The court explained that the cost-sharing arrangement is known as the ''80–20 split,'' but the label is misleading because of the total amount paid to the provider, the beneficiary's share typically exceeds 20 percent.
>
> That share rises because the Health Care Financing Administration reimburses on the basis of the hospital's costs, while the beneficiary owes a percentage of hospital charges. Because providers normally charge above cost, the beneficiary's share represents

something more than 20 percent of the total payment to the hospital.

Carol Jimenez, an attorney for the Los Angeles-based Center for Health Care Rights and the appellants' lead attorney, said the ruling ''will result in both beneficiaries and the Medicare program paying more for hospital outpatient services.''

In an announcement following the decision, Jimenez cited a General Accounting Office report finding that Medicare patients' cost sharing, as well as Medicare's costs, vary dramatically for the same service depending on where it is received. For example, cataract surgery that cost a patient $1,200 in a hospital [plus additional amounts paid by Medicare] would cost a patient only $250 and the Medicare program only $1,000 if performed in an independent surgical center.

* * * the Ninth Circuit * * * concluded, ''While we are sympathetic to the plight of Medicare beneficiaries who are burdened by ever rising medical costs, we conclude that ''none of [the existing laws] compels HHS to limit the charges.

The court wrote that Congress is aware of both the cost-shifting problems and HHS' failure to ''correct'' it. ''* * * Congress is aware of the issue—indeed Congress may have caused the problem by introducing prospective payment for some services but not others—and that Congress has deliberatively declined to address it.

The court also noted that Congress is studying the feasibility of a prospective payment system for hospital outpatient services which could address the beneficiaries concerns. ''Thus, we decline the beneficiaries' invitation to preempt congressional action in this very delicate area of public policy,'' the court wrote.

Mr. Speaker, it is way past time that Congress acted to correct this multi-billion dollar cost shift onto retirees and the disabled and to fulfill Medicare's promise of an 80–20 copay system.

IN RECOGNITION OF GREGORY SZURNICKI

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. ACKERMAN. Mr. Speaker, I rise today with great pride to share with my colleagues in the House of Representatives the story of a man whose entire life has been committed to making the lives of others better.

I speak of Gregory Szurnicki, who was honored on January 25, 1997 by the Kings Park Chamber of Commerce as the 1996 Man of the Year.

The youngest of nine children, Gregory entered the Armed Forces shortly before his 20th birthday to fight in World War II. He, like many other courageous young soldiers, landed on Omaha Beach in Normandy, France on D-day, June 6, 1944. Five campaigns later, the war ended for him just outside of Berlin, Germany and 1 year later was discharged from military service.

After the war, he settled in Suffolk County, and began working at the Kings Park State Hospital in charge of 85 patients during the evening shift. It was here that he began his efforts to improve the quality of life of the patients and the employees. He effected such changes as improved patient-staff ratio, upward mobility through career ladders, and a higher level of training opportunities. In 1975, Greg founded the Kings Park Employees Federal Credit Union and served as the union's president until 1996.

Throughout his career, he formed many civic groups and became extremely active in local civic affairs. His involvement with the union as an advocate and organizer led him to many positions on the local, regional, and statewide levels where he could continue to work for the good of all.

Since his retirement in 1988, Greg has continued to stay fully involved in civic affairs. He serves as the facilitator for the Northwest Civic Coalition and the Suffolk Community Alliance, whose membership includes all the major civic coalitions in Suffolk County.

Greg is truly one of Kings Park's treasures and has been a driving force in ensuring that Kings Park is a better place to live in.

I ask my colleagues to join with me in saluting Gregory Szurnicki who has provided a lifetime of service to his country and his community, and in congratulating him on being named the 1996 Man of the Year by the Kings Park Chamber of Commerce.

MICHIGAN STATE REPRESENTATIVE ROBERT A. DEMARS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. DINGELL. Mr. Speaker, I rise today to honor a great man and friend, former Michigan State Representative Bob DeMars. Bob was devoted to his family and committed to his work and his cherished memory will not fade from the hearts and minds of those who knew and loved him.

Bob died as he lived: serving the people of his district in Lincoln Park, Melvindale, Ecorse and Allen Park.

As a Michigan native, Bob spent his entire life in public service, first as a teacher, then as mayor, city councilman, city treasurer, and State representative.

Bob taught for 26 years in the Lincoln Park Public Schools. He served as a local president for the Michigan Education Association and as a local president, state vice president, and national vice president of the American Federation of Teachers.

Bob was a veteran of World War II where he served in the U.S. Navy's Submarine Service. He introduced many bills to assist veterans, introducing legislation that provided special license plates for veterans of World War I, World War II, and the Korean and Vietnam wars to honor those who served their country.

In community service, Bob served as president of the Lincoln Park Jaycees and the Lincoln Park Kiwanis Club. He was also a member of the American Legion, V.F.W., Chamber of Commerce, Eagles, Masons, Scottish Rite, Shriners, Moose, Optimists, Historical Society, and the P.T.A. He sponsored two Little League baseball teams. In the Democratic Party, Bob served as vice-chairman of the 26th District and was a precinct delegate. He was a member of the Michigan Democratic Party and the Lincoln Park, Allen Park and Melvindale Democratic Clubs.

Bob's 15-year-old daughter Maeann and wife of 32 years, Deanie were the light of his life.

Today we join his friends and family in remembering Bob DeMars and thank him for the growth and encouragement he gave to our community and its people.

He is greatly missed.

INTRODUCTION OF EWING-LEWIS LENDER AUDIT LEGISLATION

HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. EWING. Mr. Speaker, in partnership with Mr. LEWIS of Kentucky, I have introduced a bill which will repeal an ineffective and burdensome regulation now mandated by the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1992. This act blindly requires all lenders who participate in the Federal Family Education Loan Program to perform expensive, comprehensive annual audits on their student loan portfolios. Similar legislation was included in the continuing resolution adopted for fiscal year 1997, and thus expires on September 30 of this year. Passage of this bill will permanently extend the lender audit exemption.

In our respective districts, the gentleman from Kentucky and I represent small banks and credit unions which maintain and service small student loan portfolios in compliance with the Federal Family Education Loan Program. The profit on these portfolios is estimated to be around $3,000 to $5,000 annually, while the audit required by the Department of Education costs anywhere from $2,000 to $14,000 annually. As you can see it does not make sense for small lenders to service these loans and participate in the FFEL program. In fact, many small lenders are selling their portfolios and leaving the student loan business altogether. This is not fair to student borrowers in rural areas who are increasingly unable to utilize lending institutions that they are familiar with. This is also not fair to smaller lenders who wish to service and maintain student loans. If this policy is enforced, small lenders will be effectively cut out of the student loan business and consumers will be denied the opportunity to do business at their local bank.

I contacted the Department of Education about the possibility of a waiver or alternative to this detrimental mandate. The Department stated, ''* * * lender audits are required by statute * * *'' and that the ''* * * statute does not provide authority for the Department to waive the annual audit based on the size of the lender's FFEL portfolio or the cost of the audit.'' Furthermore, according to the Department of Education's Office of the Inspector General, lender portfolios totaling less than $10 million do not even have to send their audit to the Department for review. They are only required to ''* * * hold the reports for a period of 3 years and shall submit them only if requested.'' That means lenders waste thousands of dollars on a compliance audit that is never sent anywhere or reviewed by anyone. I have no doubt that protecting the integrity of the Student Loan Program is important to all of us. However, this current situation does not protect any portfolios under $10 million because no one reviews the results of the audits.

The Office of the Inspector General at the Department of Education has also expressed