TANF funds and the child support funds will mean a loss of $4 billion to the State of California. States like the State of the great chairman of the subcommittee, Illinois, will lose close to $700 million in funds. Ohio, South Dakota, New Mexico, Hawaii, Maryland, Michigan, Nevada, Pennsylvania, all of these States are not going to meet that deadline.

I had originally intended to offer an amendment to delay the imposition of those deadlines and to provide for a moratorium for 6 months so that we could both look at the situation and have time to change the law. I have been persuaded by the fact that my amendment would not be in order, that was helpful in persuading me, but in addition to that, the gentleman from Florida [Mr. SHAW], the chairman of the key subcommittee of the authorizing committee, has a strategy which I would like to yield to the gentleman to describe, which will deal with the possibility of my State and many other States in this country losing an incredible amount of money, totally destroying the whole structure of the Welfare Reform Act the gentleman worked hard on, meaning the inability to enforce interstate child support collection functions and a number of other key functions.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Florida.

Mr. SHAW. I thank the gentleman for yielding to me to clarify exactly where we are on this, because as the gentleman quite correctly stated, this is not only a problem that the Californians are concerned about, but it is a problem that at least 9 other and perhaps 10 other States are concerned about, as the gentleman said.

The deadline was extended under the Welfare Reform Act to October 1 of this year. In that there are a number of States that have tried to comply and been unable to comply for some very technical reasons, we have had this matter under discussion in the committee itself.

The way the law presently is written and hopefully will remain is that after this deadline, there is a period of time of approximately 6 months in which the various States can, and I am sure will, appeal in order to pick up the added time and also in order to negotiate with the Secretary, also in order to give this Congress an opportunity to go back and review exactly where we are.

It is my intention as chairman of the Subcommittee on Human Resources to bring a bill to the floor, in cooperation with the Secretary, that would give her certain discretion in imposing any penalty, and, of course, I am sure she would never impose the tremendous penalty as to total defunding, as the gentleman pointed out, in California.

Nonsupport by noncustodial parents is probably the biggest reason for welfare in this country today. We are only collecting about $14 billion a year out of a total of almost $50 billion that is due. That is a horrible situation, and it is necessary that we solve the problem by making it easier to track the deadbeat parents down in order to be sure that they live up to their obligations.

My own State of Florida will probably make the deadline, but I found out in a hearing just the other day that in order to make that deadline it has had to rely on and continue to use an antique computerized system, which it was characterized as. The State of Florida will be on time with the deadline, but they are going to be on time using an Edsel instead of something that would be more modern than that.

That is a problem, and it was sort of the law of unintended consequences that took place.

The CHAIRMAN. The time of the gentleman from California [Mr. BERMAN] has expired.

(On request of Mr. SHAW, and by unanimous consent, Mr. BERMAN was allowed to proceed for 3 additional minutes.)

Mr. SHAW. Mr. Chairman, I am very much aware of the California problem. I have spoken to the gentleman's Governor, he has been in my office, Governor Wilson. Secretary Eloise Anderson was in my office as late as yesterday discussing this problem with me.

California it appears has a fragmented system, but it is very high-tech and it is a very good system, and California wants to retain their system. We are going to try to work out a way so that the intention of the law will be brought forward and that various States as California, who have used new technology and has been innovative in the way that they have taken care of their system and updated their system, are not penalized by a Federal mandate if they meet the spirit of the law.

So I would say to the gentleman, I look forward to continuing to work with him and other Californians as well as Pennsylvanians and some of the other States the gentleman mentioned, in seeing that they do meet deadlines and that the deadlines are really enforced in a very reasonable way and that the Secretary is given latitude.

Mr. BERMAN. Mr. Chairman, reclaiming my time, just to sort of pin down the issue perhaps a little bit more precisely, California becomes vulnerable on October 1. So do these other at least 11 States. The process, as I understand it, is that by December or January, HHS will assess and decertify the States, and there is an appeals process. So, as the gentleman pointed out, it is very unlikely any money will be withheld for the next 6 months. But the fear in California, Senator FEINSTEIN has worked on this issue, spoken with the President, and is pursuing whatever mechanisms she can to try and deal with it, the fear is that ultimately something will happen, the legislation will not move, and California will now be found to have been in default, owing $4 billion. Next year's payment will be held back because of this, and the fact is the underlying law California will not be able to comply with in 6 months or 1 year anyway.

So there are two issues, the need for California and the other States to know that the penalty structure will be fundamentally changed, it is nuts to withhold TANF or AFDC funds, $3.7 billion in the State of California because of the failure to meet the computer model, and there will be a new penalty structure dealing with child support enforcement proportional to the sins in the sense it will be structured. And then the underlying question also, which is how do we achieve the centralization and coordination we need without, as the gentleman indicated by implication, encouraging old technologies rather than new technologies and requiring the scrapping of very expensive computer systems. These are both difficult questions.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. BERMAN] has expired.

(By unanimous consent, Mr. BERMAN was allowed to proceed for 1 additional minute.)

Mr. BERMAN. Mr. Chairman, people will want to go to the conference committee here and try to get this extension of the moratorium. I know the gentleman's feelings about it. Anything the gentleman can say to reassure people on this point would be very important.

Mr. SHAW. If the gentleman will yield further, first I want to make it very clear that California is not going to lose $4 billion. In fact, I would doubt that they will end up in the long run losing anything.

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Both this Member of Congress as well as the Secretary, and I assume the President, want to leave the deadline in place but want flexibility in administering the consequences.

We are looking at the law and we are going to do everything we can to restructure it to answer this California problem.

Mr. BERMAN. Mr. Chairman, I thank the gentleman.

The CHAIRMAN pro tempore (Mr. BARRETT of Nebraska). The Committee will rise informally.

The SPEAKER pro tempore (Mr. SHAW) assumed the chair.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Sherman Williams, one of his secretaries.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the

report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2016) ''An Act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1998, and for other purposes.''

The SPEAKER pro tempore. The Committee will resume its sitting.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The Committee resumed its sitting.

AMENDMENTS OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer two amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN pro tempore. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. NADLER:

At the end of title V, insert after the last section (preceding the short title) the following section:

SEC. 516. (a) No funds made available under this Act may be used under title XI, XVIII or XIX of the Social Security Act to pay any insurer if such insurer—

(1) offers monetary rewards or penalties, or other inducements to a licensed health care professional to influence his or her decision as to what constitutes medically necessary and appropriate treatments, tests, procedures, or services; or

(2) conditions initial or continued participation of the health care professional in a health insurance plan on the basis of the health care professional's decisions as to what constitutes medically necessary and appropriate treatments, tests, procedures, or services.

(b) For the purposes of this section, the term ''insurer'' means an insurance company, insurance service, or insurance organization licensed to engage in the business of insurance in a State, a health maintenance organization, a preferred provider organization, and a provider sponsored organization.

(c) For the purposes of this section, the term ''health care professional'' means a physician or other health care practitioner licensed, accredited, or certified to perform specified health services consistent with State law.

At the end of title V, insert after the last section (preceding the short title) the following section:

SEC. 516. (a) No funds made available under this Act may be used under title XI, XVIII or XIX of the Social Security Act to pay any insurer unless under health care coverage provided by such insurer—

(1) the determination of what is medically necessary and appropriate within the meaning of the insurance contract is made only by the treating health care professional in consultation with the patient; and

(2) the insurer covers the full cost of all treatment, tests, procedures, and services deemed to be medically necessary and appropriate by the treating health care professional in consultation with the patient, subject to any deductibles, co-payments, or percentage limitations provided in the insurance contract.

(b) For the purposes of this section, the term ''insurer'' means an insurance company, insurance service, or insurance organization licensed to engage in the business of insurance in a State, a health maintenance organization, a preferred provider organization, and a provider sponsored organization.

(c) For the purposes of this section, the term ''treating health care professional'' means a physician or other health care practitioner licensed, accredited, or certified to perform specified health services consistent with State law, who is directly involved in the care of said patient.

(d) Nothing in this section shall be construed as requiring the provision of coverage for benefits not otherwise covered.

Mr. NADLER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read.

Mr. PORTER. Mr. Chairman, I reserve a point of order.

The CHAIRMAN pro tempore. The gentleman reserves a point of order.

Without objection, the amendments are considered en bloc and considered as read.

There was no objection.

Mr. NADLER. Mr. Chairman, we all know that there have been many, many complaints and horror stories about the conduct of some health maintenance organizations or HMO's. It is news to no one that HMO cost-cutting measures are fast becoming an issue of vital concern and often life and death to many of our constituents.

We witnessed the subordination of health to profits just last year during the debate over the so-called drive-through deliveries, and some Members have introduced legislation dealing with drive-through mastectomies. It would certainly be silly for Congress to attempt to deal with this problem procedure-by-procedure, to have one bill for mastectomies and another for tonsillectomies, and so forth and so on.

Many of the States have enacted legislation to deal with this problem, but the State legislation cannot impact Medicare and Medicaid, and for that matter, is barred from dealing with employer insurance where it is self-insured because of ERISA.

These two amendments would protect HMO patients on two fronts. One amendment would simply say that most insurance contracts say that they will have a list of covered services, and say they will pay for any of those covered services, whether it be a gall bladder operation or whatever, if it is determined that that service is medically appropriate and necessary.

This amendment says it is the doctor, the health care professional dealing with the patient, who makes the determination whether it is medically necessary and appropriate, and that no funds can be spent to reimburse an HMO unless their procedures say that the doctor makes that determination, not a utility reviewer sitting thousands of miles away at a computer console. We all have heard complaints from doctors saying that they spend two-thirds of their time arguing with people who have never seen the patient about whether the patient needs a CAT scan or to see a specialist or needs an operation. This amendment simply says the doctor dealing with the patient determines what is medically necessary and appropriate and not someone else.

The second amendment says that when the doctor or the nurse or the physical therapist determines whether a service is medically necessary and appropriate, that decision should be made on the basis of medical necessity, not on the basis of cost. This amendment says that one cannot fund an HMO if the procedures of that HMO give an incentive to the doctor to effect that decision. One cannot say to the doctor, ''If you determine too many people need CAT scans, too many people need to see a specialist, we will pay you less money or we will knock you out of the plan; if you determine that very few people need expensive services, we will pay you more money.'' That sets up an institutionalized conflict of interest.

If someone came to a Member of the House and said, ''We will pay you if you vote this way or that way,'' that would be called bribery, it is a crime. But if someone comes to a doctor, if the HMO comes to a doctor and says, ''We will pay you more money if you decide that Mr. Smith and Mrs. Jones together do not need certain services,'' that sets up an institutionalized conflict of interest between the doctor's medical judgment and his pocketbook, and we should have no such conflicts of interest.

These two practices of someone other than the doctor saying why is it medically necessary, someone who has never seen the patient, and offering the doctor monetary incentives to make cheaper decisions and penalties if he makes more expensive decisions, put cost ahead of health, and they must be stopped.

So these two amendments say Medicare and Medicaid cannot pay for HMO services unless those procedures are changed so that the doctor makes the decision of what is medically necessary and appropriate, not the insurance company, and so that doctors are not pressured by financial incentives to decide what medical procedure is necessary.

Mr. Chairman, I understand that we have not gotten a waiver for these amendments from the Committee on Rules and that they will be ruled out of order, but I thought it important to air this on the House floor, and I will not request a vote on the amendments. I will save the gentleman the trouble of making his point of order.

The CHAIRMAN pro tempore. Does the gentleman withdraw his amendments?

Mr. NADLER. Yes, Mr. Chairman, I do.

The CHAIRMAN pro tempore. Without objection, the amendments are withdrawn.

There was no objection.