necessary to submit amendments to the Committee on Rules or to testify before our committee as long as the amendments comply with House rules.

MANAGED CARE REFORM

The SPEAKER pro tempore (Mr. BRADY). Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, let me say this evening that I will be talking about HMO reform and the need to address that issue before this House adjourns in about four weeks, or at least is tentatively scheduled to adjourn after the first week in October. I am concerned that over the next four weeks that time will not be spent on the issues that the American people want addressed in this Congress, health care reform, HMO reform, education concerns, Social Security, environmental issues. There are so many issues that need to be addressed, and I am only going to talk about one of them tonight but I wanted to mention that the Democrats as a party are united behind a strong and a bold agenda which addresses the real challenges that face working families. I am very concerned that the Republican leadership is not going to address these issues. We need to strike out and say that these issues need to be addressed before we adjourn.

The one that I would like to talk about tonight and that I think really is the most important because this is the one that I hear the most about from my constituents is HMO or managed care reform. Too many of my constituents at town hall meetings or at my district offices tell me about the horror stories, and there are many, where they have been denied necessary care because their HMO, their insurance company, has refused to pay for it. The President and the Democrats have put forward a bill, we call it the Patients' Bill of Rights, that is a real, not a fig leaf political bill designed to cover the health insurance industry. We need patient protection legislation that returns medical care to doctors and patients instead of leaving those decisions to health insurance company bureaucrats.

Let me just mention a few key elements of this Democrat real patient protection act, or HMO reform. It includes guaranteed access to needed health care specialists, access to emergency room services, continuity of care protections, access to timely internal and external appeals process if you have been denied care by your HMO or by your insurance company; limits on financial incentives to doctors. We know that too often now the HMOs give the doctors financial incentives, bonuses, if you will, if they do not spend a lot of money or require a lot of services for their patients. Also assuring doctors and patients that they can openly discuss treatment options. Many people do not know that many HMOs now put their physicians within their HMO network under a gag rule that they cannot talk about legitimate medical options, operations or other procedures if the HMO will not cover it because they do not want the patients to know that those procedures exist because they are not going to pay for them. We should not allow those kind of gag rules. They should be prohibited. The Democrats' Patients' Bill of Rights would prohibit those kinds of gag rules. Also, the Democratic bill, the Patients' Bill of Rights, assures that women have direct access to an OB-GYN; and there is also an enforcement mechanism that ensures recourse for patients who were maimed or die because of health plan actions. So not only do we allow you to go through a procedure, an appeal externally before a board, before you have to go to court where the insurance company cannot influence that appeal, but also we allow you to go to court and sue for damages if you have suffered severe damages as a result of the denial of care.

I just want to talk a little bit more if I can about the positive aspects of the Democrats' Patients' Bill of Rights and why we need to get this legislation, or something like it, passed before we adjourn this Congress in another four weeks. Greater choice of doctors. A lot of my constituents point out that they feel there should be some sort of option that you can go outside the HMO network if you want to, even if you have to pay a little extra. What the Democratic Patients' Bill of Rights says is it requires that individuals enrolled in HMOs be offered a greater choice of doctors under what is called point of service. Employers must provide employees with the option of choosing a doctor outside the company health plan. What that means is that when your employer offers you a health plan, he can give you the choice of an HMO but he also has to give you the option of having the HMO and letting you go outside the HMO network for a little extra if you decide to do so. You get that option when you first sign up for your health insurance. Most important, in the Patients' Bill of Rights, the Democratic bill, medical decisions are made by doctors and patients based on medical necessity, not by insurance company bureaucrats. The bill ensures that treatment decisions, in other words, what you need, what is medically necessary for your care, those treatment decisions such as how long a patient should stay in the hospital after surgery, what type of procedures are appropriate, that these decisions are made by the doctor in consultation with the patients. They are not made by the insurance company. Again, we have an example of that which we did last year, or in the previous Congress with regard to pregnant women, that the length of stay provision for pregnant women, when they go to have the child, that they are guaranteed that they can at least stay in the hospital 48 hours for a normal delivery or four days for a C-section. That is exactly the type of guarantee that we will be including in this Democratic bill when we say that the doctor and the patient decide what is medically necessary rather than the insurance company.

Access to specialists. I want to spend a little more time on that because it is so important to so many of my constituents. Our bill allows patients to see an outside specialist at no additional cost whenever the specialist in their plan cannot meet their needs. So if there is a specialist in the HMO network who can take care of you, fine, but if there is not because they do not have that particular specialization, then they have to allow you to go outside the network to see another doctor. The bill also lets women select obstetricians and gynecologists, as I have said, as their primary care provider.

Enforcing patient protections. I think everybody knows, most Americans realize that if you have a right or you have a protection, it does not do you much good unless you can enforce it. What our bill does is it holds managed care plans accountable when their decisions to withhold or limit care injure patients. Unfortunately in court cases around the country, HMOs have not been held accountable. Currently patients may not have the right to sue their HMO in court if they are in certain circumstances. The Democrats' Patients' Bill of Rights removes the exemption under current Federal law that prevents HMOs from being sued in certain circumstances. It also establishes an independent system for processing complaints and appealing adverse decisions with expedited procedures for life-threatening situations. What this means is that if you have been denied a particular operation, not only do you get an external review board which is not influenced by the insurance company that you can go to to appeal the insurance company's decision and it would be enforceable, but also if it is life-threatening, that has to be done very quickly. Otherwise it is not very useful to you. What this guarantees is that decisions on care are based on medical appropriateness or necessity, if you will, not cost, because obviously what the HMOs do in many cases is make their decisions based on cost.

What I wanted to talk about a little more tonight, I have given you some idea I think about what the Democrats are trying to do with our Patients' Bill of Rights but I also have to point out tonight that the Republican alternative which passed the House in August before the August recess not only does not provide the types of guarantees that I am talking about but actually takes us back. It creates an even worse situation, even less guarantees in my opinion for the American people. The House hastily, and I say hastily because this Republican bill was just

brought to the floor without any committee action or without any hearings, just brought to the floor right before the August recess and passed and the Democrats' Patients' Bill of Rights, of course, was defeated only by five votes, so we still have a chance to resurrect it. What the Republican leadership was trying to do when they brought their own version, if you will, of HMO reform to the floor in August was to get something passed so that they could go back to the voters at their August town hall meetings or their other venues and say, ''Oh, we've accomplished something.'' But their plan, I assure you, was a sham. It is essentially a managed care bill that is better for managed care organizations, and they are not going to be able to or should not be able to pawn it off as a good piece of legislation. The bottom line is that the Republican leadership is not willing to pass a real managed care reform bill because it does not want to offend the insurance industry.

Let me say, Mr. Speaker, that based on what my constituents voiced to me during the various town hall meetings I have had in the last few weeks is that the Republican plan was essentially a bust. They repeatedly told me that when it comes to managed care that they want three things above everything else.

□ 1945

They want medical decisions to be made by doctors and their patients, they want direct access to specialists, and they want HMOs to be held accountable for the decisions they make. And my constituents were emphatic in their belief that none of the protections under consideration in this Republican bill are worth a dime because they cannot be enforced, and there is basically one of the best ways to enforce patient protections is to have the right to sue, which of course is not expanded under the Republican bill.

Let me point out why I think that this Republican HMO bill makes current law worse and essentially why all the things that they mention would be corrected, if you will, by the democratic bill.

The first of the three aspects I mentioned is, and perhaps the best indicator of just how bad the Republican managed care bill really is, and this is with regard to the necessity of medical treatment or the appropriateness of medical treatment because this really lies at the very heart of the managed care debate. The Republican managed care bill addresses this question of medical necessity by essentially locking the status quo into place. It does so by allowing HMOs to define what is medically necessary. Under the Republican bill, if your doctor's recommendation does not match your HMO's definition of medical necessity, you are out of luck. So, as you can see, if you have to have a particular operation or you want to stay a certain length of time in the hospital and the HMO decides through its own definition that that operation is not medically necessary, it does not matter what your doctor tells you, because the final word is that they have defined it as not medically necessary. So, if you allow the insurance company to define what is medically necessary which is what the Republican bill does, then the whole idea of shifting the decision back to the doctor and the patient and away from the insurance company as to whether or not you have a particular type of care coming to you is essentially lose.

Now, of course I mentioned before that our democratic bill, the Patient Bill of Rights, corrects this problem and lets the medical professional, the doctor, decide what is medically necessary. The Republicans are trying to pull the same kind of scam, if you will, with access to specialists. The GOP bill would allow women to go directly to the OB/GYN, but it would not give women the right to designate the OB/GYNs as their primary caregivers. And of course the democratic Patients Bill of Rights would do that. So basically also the Republican bill would also allow children to go directly to pediatricians so they give that right but not without strings because under the Republican bill your child may be guaranteed access to a pediatrician, but if your child gets cancer and needs speciality care, there is absolutely no guarantee that he or she will have access to, for example, a pediatric oncologist, a specialist within the pediatric field. So under the Patients Bill of Rights however that child will get that guarantee, so again what we are saying is if the OB/GYN is not the primary care provider, then that person is not going to be the person that gives you a referral to another specialist. And again, if you are allowed to see a pediatrician, that pediatrician does not have the right to send you to a specialist for your child in a particular area that he or she may need the specialist. Then essentially you again are limited in the choices that you have for a physician or your access to specialty care.

Let me give you another example, if you will, with a cardiologist. If you have a heart problem and you need to see the cardiologist, the Republicans would have you jump through hoops to try to get there, and you could still fail. The democratic bill directly opens the cardiologist's door. So if you have asthma, you can see the asthma specialist and down the line. In other words again, you may through the Republican bill be able to see a cardiologist, but if you need a speciality care or reference for a particular type of cardiologist, you would not have that access, and the same with asthma and other kinds of sub specialities.

What I found at the town meetings that I had is that person after person basically stood up and communicated the belief that patient protections are meaningless without a means of enforcement, and so I would like to talk a little bit about the enforcement issue now as well when you have been denied care.

The only way to enforce protection, a lot of my constituents said, is to give the right to sue when their HMO denies them care and their health suffers as a result. And I know some people say, oh, you cannot give patients the right to sue when the HMOs deny them care because that is just going to result in more lawsuits.

Well, I was not getting that from my constituents at the town hall meetings. They were not worried about the fact that there would be too many loses. They were worried about the fact that if they were denied care, they could not sue for rights under the law, and that is the way it should be. People should be able to go to court if they have been damaged as a result of denial of care.

What we do, what the law is right now, unfortunately, is that if you are in a HMO or a managed care organization that comes under Federal protection, what we call ERISA because the employer is self insured, then you are denied the right to sue for damages, and we would correct that and eliminate that loophole and say that all HMOs or managed care companies can be sued regardless of whether you are under ERISA and under Federal protection.

And I also mention this external appeals process, too, as another means of enforcement where right now under the current law and also under the Republican bill a number of people would only be able to appeal the HMO's decision with regard to denial of care through an internal review process which basically still gives the HMO the right to decide what care should or should not be provided. The democratic bill insists on external appeals for all purposes, and those external appeals are basically judgment calls made by people appointed who are not under the sway of the insurance company.

Now I have to say, Mr. Speaker, that my biggest concern right now is that even though we have passed this, what I consider bad Republican bill in the House, that the Senate may not take up any legislation tall, and I am really saying tonight that the most important thing is that the other body at least move on HMO reform, certainly not on the Republican bill, but at least take up the issue so there is some fair debate and some opportunity to hear from the senators on both sides of the aisle what their constituents are telling them.

Before I conclude tonight I would like to do two things. First of all I would like to give some examples, real life examples that have been brought to my attention, of people that have been denied care or suffered from some of the problems that I pointed out this evening that would be corrected by the Democrats Patients Bill of Rights, and then I would like to go over a few sections of a letter that the President wrote to TRENT LOTT, the majority

leader in the Senate, asking that we move on this debate because I think that is the most important thing, that we move on this debate in the 4 weeks that we have left before this Congress is scheduled to adjourn.

Let me give my colleagues some examples though, and I may have used some of these before on the floor, but I want to use them again tonight. Some of them, I think, are totally new because I think they best illustrate why we need the Patients Bill of rights.

This example is from a newspaper dated January 21, 1996, and it talks about a 27-year-old man from central California who was given a heart transplant and was discharged from the hospital after only 4 days because his HMO would not pay for additional hospitalization, nor would the HMO pay for the bandages needed to treat the man's infected surgical wound. The patient died.

Well, again I use the example with the drive-through deliveries. We did pass in the first effort to deal with these problems, we did pass in the last couple of years legislation that eliminated drive-through deliveries so that, if a woman is pregnant, she goes to a hospital, have the baby, she is guaranteed at least 48 hours for a normal delivery, and 2 days for normal delivery, 4 days for a C-section because many of the HMOs were forcing women out of the hospital within 24 hours.

Now this case that I just mentioned with the heart transplant, under the Patients Bill of Rights the decision about whether or not the patient would be able to stay a few extra days in the hospital would be decided by the physician in consultation with the patient and the HMO would not be allowed to deny those extra few days that the physician thought was necessary.

Another example; this is from the same year from Long Island. Well, this is from the Long Island News Day I should say, but it is about a mother in Atlanta who called her HMO at 3:30 a.m. to report that her 6-month-old boy had a fever of 104 and was panting and limp. The hotline nurse told the woman to take her child to the HMO's network hospital 42 miles away, bipassing several closer hospitals. By the time the baby reached the hospital he was in cardiac arrest and had already suffered severe damages to his limbs from an acute and often failed disease. Both his hands and legs had to be amputated. Now that may have been the example that my colleague, the gentleman from Iowa (Mr. GANSKE), gave last week when we were talking about the same issue on the floor.

Again I had not talked much about emergency care tonight, but what the Patients Bill of Rights does, what the democratic bill does, and I call it a democratic bill, but the Patients Bill of Rights has Republican supporters, too. Mr. GANSKE from Iowa is, in fact, the chief sponsor of the bill. So it really truly is bipartisan, but the Republican leadership basically has opposed it. So even though there are some Republicans that support it, the leadership is opposed to it.

And what our bill would do is it would say that the decision about going to an emergency room and going to the closest hospital as opposed to some hospital further away is based on the average citizen's analysis; you know, what we call a prudent lay person's analysis of what is an emergency. And so if you have the situation where your 6-month-old baby had this fever and was panting and limp, the average person would say, well I cannot wait to go to a hospital 42 miles away, I have got to go to the hospital next door or within a few minutes of my house, and therefore the HMO would have to pay because average citizen would understand that that is necessary, and you cannot wait to go to a hospital 42 miles away which is absurd. I think most people have no idea that their HMOs put these kind of restrictions in, but then they find out when it is too late.

Let me give you another example. This is from the Minneapolis Star Tribune, March 23, 1996. A 15-year-old girl with a serious knee injury was taken by her parents to a PPO orthopedic surgeon. The surgeon said there were 2 kinds of surgery for such an injury, traditional scapel surgery and state-of-the-art laser surgery which is considered the most effective method. The insurer would not pay for the more expensive lasar surgery. A company claim supervisor was quoted as saying we are not obligated contractually to provide Cadillac treatment, but only a treatment.

Well there again we go back to who is going to define what is medically necessary. Under the Republican bill that decision is made by the insurance company which is the way it is now under the current law. Under the democratic Patients Bill of Rights that decision is made by the doctor in consultation with the patient. So, if the doctor in this case said that the most effective method is the state-of-the-art laser surgery, that is what the insurance company would have to pay for.

This kind of illustrates, this also illustrates, the gag rule example as well. Now fortunately in this case the HMO apparently did not have a requirement that the physician not tell the patient about the better method, but there are many circumstances where the HMO will actually say to the physician that he cannot mention the alternative, the better alternative, in this case the state-of-the-art laser surgery so that the patient would not even know that there is a better alternative, and that is another thing that we are eliminating with the Patients Bill of Rights.

Let me mention a couple of other examples, and then I will conclude with this letter that President Clinton sent. This is in Oklahoma. It is from the Washington Post, March 12 of 1966, and this is the case in Oklahoma where a neurologist performed a cat scan on a patient suffering headaches revealing an abnormality in the brain. The doctor recommended a magnetic resonance arteriogram which required a one night stay in the hospital. The patient's HMO denied payment on the grounds the test was investigative. The doctor wrote the patient saying I still consider that a magnetic resonance arteriogram is medically necessary in your case. The HMO wrote to the doctor:

I consider your letter to the member to be significantly inflammatory, the HMO's medical director wrote. You should be aware that a persistent pattern of pitting the HMO against its member may place your relationship with the HMO in jeopardy.

So here, because the physician refused to abide by a gag rule and said that he was going to tell his patient what needed to be done even though the HMO would not cover it, now he is in trouble, and he is likely to be penalized or perhaps thrown out of the network because he told the truth.

Well, what kind of a society do we live in where we advocate freedom of speech yet we would deny the physician to speak out and tell his patient what is best based on his own medical opinion? Well, once again that would be corrected by the democratic Patients Bill of Rights not only because the physician would be allowed to say what he had to without any repercussions from the HMO but also because the procedure that was recommended, they would have to pay for it.

What a lot of the HMOs do, they get around paying for a particular type of surgery or operation or procedure by saying it is investigative, et cetera, speculatory, it is something that has not received enough attention.

□ 2000

What we find is that oftentimes a procedure that really is needed by the patient is not reimbursed or not paid for on those grounds.

Let me just give one final example, if I could. This is from the New York Post, September 19, 1995, and this is a 12-year-old girl who had to wait half a year for a back operation to correct a severe scoliosis. The HMO rejected the parents' bid to have a specialist perform the procedure, insisting instead on an in-network surgeon. After taking 6 months to determine that no one in its own network was capable, the HMO relented.

Now, there again, that goes back to what I mentioned before. Under the Democratic Patients' Bill of Rights, if, within the network, there is not a specialist who can deal with the particular problem or the health care need that one has, then one is entitled to go outside the network and the HMO has to pay for the specialist in that circumstance, and that would clearly cover this case.

I could go on and on and mention a lot more examples, and we certainly will over the next few weeks in an effort to make sure that this issue comes

to the attention of the Senate and that we have action in the Congress as a whole, and we send a bill to the President before we adjourn in October.

The President, in responding to a letter to TRENT LOTT, the majority leader in the Senate earlier, this month, and I think we entered this letter into the RECORD last week, so I am not going to go into all of the details; but he spells out the problems that he has with the Republican bill that is proposed in the Senate and has a lot of similarities, in a negative way, to the House Republican bill.

But I do want to point out what the President is talking about in terms of the need to move the agenda. He says that, ''Since last November, I have called on the Congress to pass a strong, enforceable and bipartisan Patients' Bill of Rights. During this time, I signed an executive memorandum to ensure that the 85 million Americans in Federal health plans receive the patient protections they need, and I have indicated my support for bipartisan legislation that would extend these protections to all Americans. With precious few weeks remaining before the Congress adjourns, we must work together to respond to the Nation's call for us to improve the quality of health care Americans are receiving.''

Mr. Speaker, I want to point out that not only has President Clinton been talking about the need for the Patients' Bill of Rights for over a year, started very emphatically in the State of the Union address last January, but he has signed these executive orders that actually expand the types of patient protections that I talked about tonight to those within Federal health plans. Also, last year, the Congress passed and sent to the President, and he signed, the Balanced Budget Act, which also included a lot of these protections in Medicare and Medicaid programs. Not all of them, but a lot of them.

So the President has done his part, really, to not only bring this issue to the attention of the Congress and the American people, but also through administrative methods to try to include it in any plan that comes under the aegis of the Federal Government. However, none of these things apply, or at least are required under Federal law, for anyone who has private health insurance. That is not fair. Clearly, if these things are good enough for the Federal Government, for Federal employees, for those who are in Medicare and Medicaid, it should apply to everyone equally, the same way.

More needs to be done, of course, because a lot of the things are not covered even under the Federal plans because the President does not have the authority to expand all of the patient protections to those plans, so we need the patient protections that I mentioned tonight, not only to make it fair for those who have private plans, but also to cover all of the public plans as well.

The last thing, the other thing that I wanted to point out that the President says in his letter to the majority leader in the Senate, he says, ''I remain fully committed to working with you, as well as the Democratic leadership, to pass a meaningful Patients' Bill of Rights before the Congress adjourns. We can make progress in this area if, and only if, we work together to provide needed health care protections to ensure Americans have much-needed confidence in the health care system. I urge you to make the Patients' Bill of Rights the first order of business for the Senate.''

The President has indicated, and all of the Democrats have indicated, that we want to work with the Republicans in a bipartisan way to get the Patients' Bill of Rights, or something like it, passed. So far we have not been getting that cooperation from the Republican leadership, even though we do get support from some Republican Members individually.

So I would urge tonight, we only have less than 4 weeks left really, and I would urge my colleagues to put pressure on the Republican leadership, in the Senate primarily, and ultimately in both Houses of Congress, to get this managed care reform agenda moving. Let us have debate in the Senate, let us get something that both houses can agree on, and let us send it to the President before the October recess. We owe this to the American people, because so many people are suffering now when they are denied health care that they should have as Americans.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GOSS (at the request of Mr. ARMEY) for today and September 15 on account of illness in the family.

Mr. ENGEL (at the request of Mr. GEPHARDT) for today and September 15, on account of the New York primaries.

Mr. RUSH (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. JEFFERSON (at the request of Mr. GEPHARDT) for today on account of personal business.

Mr. YATES (at the request of Mr. GEPHARDT) for today after 5 p.m. On account of physical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LANTOS) to revise and extend their remarks and include extraneous material:)

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. LANTOS.

(The following Members (at the request of Mr. MCINNIS) to revise and extend their remarks and include extraneous material:)

Mr. MILLER of Florida, for 5 minutes, on September 16.

Mr. RAMSTAD, for 5 minutes, today.

Mr. BOB SCHAFFER of Colorado, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LANTOS) and to include extraneous material:)

Mr. TOWNS.

Mr. KUCINICH.

Mr. KIND.

Mr. BENTSEN.

Mr. LAFALCE.

Mr. FILNER.

Ms. KILPATRICK.

Ms. MCCARTHY of Missouri.

Mr. BONIOR.

(The following Members (at the request of Mr. MCINNIS) and to include extraneous material:)

Mrs. JOHNSON of Connecticut.

Mr. BILBRAY.

Mr. SHUSTER.

Mr. SMITH of New Jersey.

Mr. COBLE.

(The following Members (at the request of Mr. PALLONE) and to include extraneous material:)

Mr. HOBSON.

Mr. ROHRABACHER.

Mr. JOHNSON of Wisconsin.

Ms. EDDIE BERNICE JOHNSON of Texas.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2094. An act to amend the Fish and Wildlife Improvement Act of 1978 to enable the Secretary of the Interior to more effectively use the proceeds of sales of certain items; to the Committee on Resources.

ADJOURNMENT

Mr. PALLONE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 6 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, September 15, 1998, at 9 a.m. for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

10850. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Change in Disease Status of Great Britain Because of Exotic Newcastle