engaged in our utmost efforts to furnish such relief directly to Katrina victims as well as to support State efforts to provide emergency health care and related services (see above). We believe these ongoing efforts largely preclude the need for the activities proposed under S. 1716. Moreover, we have serious concerns with S. 1716, as enunciated above.

In addition, the bill spends significant amounts on adjustments to the Medicaid FMAP (Federal medical assistance percentage), and we do not support the individuals with incomes up to 200% FPL, disabled individuals with incomes up to 100% FPL. As a result, a new eligibility category for childless adults is established. There are no resource or residency requirements for DRMs. DRM participants will receive the benefits package available to categorically needy beneficiaries under the Medicaid state plan. States may also provide additional mental health benefits and coordination benefits to DRM eligibles, which are not limited to conditions directly resulting from the hurricane.

The legislation requires a new Medicaid entitlement for Katrina survivors, regardless of whether that will work best for those survivors or the states. This new program is unnecessary. CMS is already acting to meet the health care needs of hurricane survivors through the establishment of a new Medicaid/State Children’s Health Insurance Program (SCHIP) waiver program that builds upon existing Medicaid/SCRIP eligibility and other program rules to provide immediate, comprehensive assistance for those eligible for congressional action. This waiver program allows individuals who otherwise would be eligible for Medicaid in their home states to receive temporary Medicaid coverage without going through a complex and burdensome application process.

While we prefer the state-based uncompensated care pool referenced in the CMS waiver process, new funds of this kind are generally more expeditious to use existing state systems. We believe states are better equipped than the Federal Government to work directly with local providers to solve the problems of uncompensated care. The state-based uncompensated care pool in the CMS waiver will pay providers for uncompensated care, including the existing state payment systems without establishing a new bureaucratic process. It will also allow for care in settings and from providers that may not participate in Medicaid, enabling evacuees to get the best care and the providers in the state to deliver it as effectively as possible. The waiver program also allows for new interactions with expanded community-based health care centers, mobile units for providing basic care at convenient locations for evacuees, and new referral networks. The pool will permit states to pay for additional services needed by evacuees, such as additional mental health services, that are not generally covered by Medicaid.

We believe that S. 1716 does not appropriately address the needs of hurricane survivors. Section 103 spends $4 billion on a 100% FMAP rate for services (and related administrative activities) provided from August 28, 2005 through December 31, 2006 under the State Medicaid or SCHIP plan to any individual residing in a disaster parish or county, regardless of whether the individual is affected by Hurricane Katrina. Section 108 spends almost $700 million for services for these survivors.

We believe states are better equipped than the Federal Government to solve the problems of uncompensated care, whether the individual was affected by Hurricane Katrina. Section 108 spends almost $700 million on a 100% FMAP rate for services (and related administrative activities) provided from August 28, 2005 through December 31, 2006 under the State Medicaid or SCHIP plan to any individual residing in a disaster parish or county, regardless of whether the individual is affected by Hurricane Katrina. Section 108 spends almost $700 million for services for these survivors.

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While we prefer the state-based uncompensated care pool referenced in the CMS waiver, we look forward to working with the committee to ensure care to evacuees and solve the problems of uncompensated care.
I might say, Senator Grassley and I have worked for weeks on this legislation. It has been 4 weeks since Katrina hit—4 weeks.

Now, some suggest the administration was slow to respond, that FEMA was slow to respond, that FEMA was inadequate in responding. We have heard these complaints. A lot of them are accurate.

Where is the Senate? Where is the Congress? Where? I ask Senators, where is the Senate? Where is the Congress? I will tell you where. We are poised to pass legislation, but the same people and the same political party that were slow with respect to FEMA and the administration are now here today slowing down and stopping this legislation from passing. The same group. The same group. I cannot believe it. I cannot understand it.

This legislation has very broad support. It has the support of Senator Grassley, the chairman of the Finance Committee, and the Senate Republicans. I do not think of chairman of the Finance Committee, who, I might say, is a very good man. He is a good man. He cares. He puts people above politics. He puts the needs of the Katrina victims above politics. He wants to do the right thing. And I very heartily and soundly congratulate him. He has done such a wonderful job.

We have also consulted with the Senators from the States affected, working out the details of this legislation, crossing the T’s, dotted the I’s, making changes to make sure it works right. We have consulted with the Senators from the States affected, who are from both political parties. They want this legislation. They are from both political parties, and they want it.

We spent a lot of time working on this—a lot of time. We have done the right thing. We made changes, as Senators suggested. We are trying to make it better, not only the chair of the committee, but the whole committee, trying to make it respond to the needs of the people in Louisiana, Alabama, Texas—the States affected. We have tried our very best to do this right.

I might repeat, not only the Senators of the States want this legislation, but the Governors of the States want this legislation. If we want to get to labels here, two of those Governors are Republicans. Today, publicly, I asked the question and Senator Grassley, the chairman, asked the question: Governors wanted legislation? Yes, they want it, they want it now.

Ask Governor Blanco of Louisiana. They know the needs. They are there. They know the stakes. They are the Governor. They want this legislation passed now.

Governor Riley of Alabama, he wants it now. Governor Barbour of Mississippi, he wants this legislation passed now. Governor Blanco of Louisiana, she would certainly like it passed now.

I might say, too, this is a compromise. There are Senators here who would like to offer more sweeping legislation and try to get that legislation up for a vote. I daresay, if that legislation was up for a vote, it would pass by a very large margin.

But there are Senators here who do not want to vote on that legislation. They do not want to vote on it. They do not want to vote on it. What is my evidence of that? Many times I have asked unanimous consent to bring up this legislation. Many times the chairman of the committee brings up this legislation. And we get objections from the other side of the aisle. We get objections from the other side of the aisle. Oh, it costs too much, I heard. That is one complaint. I do not know. This legislation is temporary. It is only for several months. It is only basically until the end of the year. It is basically to help people get health care under Medicaid, to get health care now.

There are examples of people who cannot get health care today, victims of Katrina who cannot get health care today. Why in the world is the Senate, controlled by the same party as the White House, saying no? Oh, we hear: We want a compromise. Let me tell you this. What is the compromise I heard? The compromise I heard is: Take it all out of the $65 billion appropriated for Katrina. Take it out of that. That is what I have heard. Can you believe that? Can you believe that? They say some of that money has been misspent. So people who need health care shouldn’t get the dollars? They shouldn’t get support? They shouldn’t get their health care because some of the FEMA dollars might have been misspent? Give me a break. Give me a break.

What is going on here? What, in fact, is going on here? I don’t understand it. I thought we were Senators. I thought we were going to do the right thing, to rise up and help people who need help, particularly immediately. Sure, we should scrub this stuff and look at it closely. And we have. We have. Senator Grassley and I have. Our staffs have—very closely. We have tailored this down and cut it back down compared to what other Senators in the body want passed, some of the Senators in the committee wanted passed. We said: Oh, no, no, we are not going to go that far. We will take this a step at a time. We will legislate, only until the end of this year.

These provisions, the Medicaid provisions, the FMAP provisions, the eligibility requirements only apply for several months, to the end of this year. Then the stop.

Let me tell you, we met today, the Finance Committee, with experts—one was George Yin, head of the Joint Tax Committee staff—trying to learn some lessons from New York that might be applied in this case. He made a very interesting point to us. He said: You must know, Senators, it is very hard to know the effectiveness of tax breaks because we don’t have a lot of evidence. He also said something else. He said: Because these are of a short duration, the ones proposed in this bill, they probably will not be utilized very much because people don’t know about them. People don’t know they are there. It is hard to get the word out.

So those Senators should not be too concerned this bill will be “too expensive.” If they are concerned about FEMA fraud, I think they should be more concerned about waste, if they are concerned about money not being properly spent under FEMA, and so forth. I suggest when the next appropriations bill comes up to spend more money at FEMA to give more cash, that is the proper place to look at any potential waste, any problems, if any, that occur under FEMA. I don’t know what occurs and does not occur, but the Senators I have heard don’t want this bill passed because they say: Oh, it is wasteful. FEMA wasted money. If that is the case, don’t take it out of the hide of poor people who need help. You take it out of the hide of FEMA. You take it out of the hide of additional appropriations.

I heard something else here tonight. I have heard the administration is opposed to this legislation. They quietly kind of are. I don’t think they want to admit it. They sent this letter that the Senator from Arizona put in the RECORD. They say: Well, maybe we can do it with waivers. Maybe we can do it a little bit better. Come on. That is not going to work. Why isn’t it going to work? It is not going to work because this waiver process is so vague, it is so amorphous. Nobody knows what it is. Nobody knows when it might go into effect.

Let me give you an example of that. Today at the Finance Committee hearing, I raised the question: Governor Barbour, Governor Riley, Governor Blanco, what about waivers?

Governor Barbour did not know anything about it. They sent this letter that the Senator from Arizona put in the RECORD. They say: Well, maybe we can do it with waivers. Maybe we can do it a little bit better. Come on. That is not going to work. Why isn’t it going to work? It is not going to work because this waiver process is so vague, it is so amorphous. Nobody knows what it is. Nobody knows when it might go into effect.

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assistance. We want to, first and foremost, thank you for your assistance with Katrina relief. We share the goal of addressing the immediate health care needs of people affected by the disaster.

We have, however, chosen different paths for achieving our shared goal. We have introduced and pass the Emergency Health Care Relief Act, S. 1716, which would provide immediate coverage for a temporary period for Americans displaced by Hurricane Katrina, as well as the states of Louisiana, Mississippi, and Alabama, and provide a means for survivors to retain private health insurance coverage. We believe that this program is clearly necessary, efficiently implemented by the Department. We have noted your opposition to our bill and are puzzled at how you expect to achieve our shared goals without ours.

Specifically, we would raise the following questions:

1. After the September 11, 2001, attacks on New York City, the Department quickly approved a waiver to provide Medicaid coverage for New Yorkers, even those not normally eligible for Medicaid, for a temporary basis. While you refer to the coverage provided through the waiver program as “comprehensive relief,” the waiver in Texas does not provide the same eligibility for Katrina evacuees as was provided through the New York waiver. Could you please explain to us why the Katrina evacuees do not deserve the same assistance provided the people of New York?

2. Your waiver process appears to contemplate having those Katrina evacuees without insurance obtain coverage by an uncompensated care fund. Providers will provide charity care and then seek reimbursement from the uncompensated care fund. How does the Department plan to control expenditures for the temporary assistance program. How does the Department anticipate needing for the fund? Do you believe that the Department is going to happen. It is very unclear.

3. The states of Louisiana, Mississippi, and Alabama have suffered tremendous devastation that will drastically affect their ability to meet state obligations, including their share of Medicaid. The Department’s waiver process simply bills claims for Katrina evacuees in Texas (and other host states) back to Louisiana and Alabama. When the bill comes due for those claims we would anticipate that the Department is going to expect payment since the Department does not have any statutory authority to waive those payments. Will the Department be seeking a statutory response or does the Department believe that the affected states do not need any statutory authority to waive those payments. Will the Department be seeking a statutory response or does the Department believe that the affected states do not need any statutory authority to waive those payments.

4. We believe that allowing individuals to preserve their private insurance coverage is an important principle. That is why you oppose, the Emergency Health Care Relief Act, provides for Disaster Relief Fund so that people may keep private coverage. Your waiver process does not provide for assistance to people wishing to keep private coverage except perhaps through the uncompensated care fund which we have already established for those who choose to preserve private coverage for Katrina survivors.

5. We believe that the welfare provisions of S. 1716 are very important. Though H.R. 3672 the TANF Emergency Response and Recovery Act of 2005 (Public Law 109-68) makes some modest progress towards getting states the help they need to provide vital support services to evacuees and those in the directly impacted states, we remain concerned that P.L. 109-68 falls short in several ways. Working in close conjunction with members from the directly affected states, the Senate bill makes a number of improvements to P.L. 109-68. It provides for non-recurrent short-term cash benefits S. 1716 allows funding to be available for any allowable TANF expenditure. We understand that states will be able to use these funds to provide non-cash services such as employment readiness and job training for a period of time that is not limited to four months. It is inappropriate to give states the greatest amount of flexibility to serve the broad needs of these families. Additionally, the Senate bill lifts the previously existing limit on the month in which would direct additional resources to states that are providing services to Katrina survivors. Do you agree that states should be confident that they will be reimbursed for the costs of helping these families?

6. We note that in your letter, you took special exception to the provision in Title H—TANF RELIEF that would allow states, such as Tennessee, that are currently drawing down Contingency Funds in order to meet the needs of their existing caseload to also qualify for the Contingency Fund in order to meet the needs of evacuees. Are we to infer from your letter that states like Tennessee should be prohibited from accessing the temporary program to cover evacuees simply because of a dire state fiscal condition that made them eligible for the Contingency Fund in the first place? We would also like to bring to your attention certain provisions of our bill that we would be surprised to find the Department opposes.

The bill provides the Secretary with the authority and funding to assist providers whose ability to stay in business has been jeopardized. We consider it critical that hospitals, physician practices and other providers get immediate assistance so that they may continue to function. If the doors close on a hospital, thinking that community that much more difficult. We hope you would agree.

The bill provides additional assistance for people who have lost their job through extensions of unemployment insurance. We feel that it is appropriate and necessary.

The bill provides additional funding for the Office of the Inspector General to ensure that relief funds are appropriately spent. We certainly hope you approve of that provision.

We have dollars in our legislation. It is $800 million. It goes for uncompensated care to hospitals. You talk to the administrators of the hospitals in these areas—Louisiana, New Orleans; other States, Arkansas, Texas—that are overwhelmed—and most of this is uncompensated care—they need help. We are providing it in this bill, $800 million.

We also provide help for people who need care, who do not have health insurance, who live up to 100 percent of poverty. They are not wealthy people: only up to 100 percent of poverty, and 200 percent of poverty for mothers who have children, pregnant women and children. That is not very much. But no, we cannot pass that. Senators say that is too much. That might be wasteful.

I don’t get it. I don’t get it. It reminds me of when I graduated from high school. This fellow sent me a congratulation card for graduating from high school. He said basically: Congratulations, and all this stuff. He said: Best of luck in those interstitial spaces when your brain runs against headlong perversity. This is one of those interstitial spaces in the sense that I don’t get it. I can’t fathom why people would not want to get this passed.

We can go to conference. We can modify this bill in conference. There are some problems. That is what we do around here. If something is not perfect—nothing is ever perfect—you don’t let perfection be the enemy of the good
around here. We go to conference. By that time, little wrinkles crop up, little problems. We take care of them in conference. No, we can’t do that. We can’t even pass the legislation. Some Senators say: No, we can’t pass it. Wrong, what the FEMA. It won’t work. For the life of me, I don’t understand why we are here.

One small example, not so small for Tina. Who is Tina? Tina Eageron is a lady who fled Louisiana 7 months pregnant but could not find a Florida doctor who would honor her Louisiana Medicaid card. Wouldn’t do it. With this legislation, Tina can get some help.

I can talk about Rosalind Breaux, who has colon cancer and was scheduled for her third round of chemotherapy on August 31, the day after the flooding began. Her husband has lost his job. There is no health insurance. Rosalind is in a real bind.

I mentioned the letter the administration sent. The Senator from Arizona has mentioned that letter. I also mentioned the letter we sent in response, the chairman of the committee, Senator Grassley, and I. That letter from the administration says the administration claims it can provide relief without the need for congressional action. It can’t. I must also say they do not have the authority. They do not have the authority to provide additional appropriations. That takes an act of Congress. They say, apparently, by implication, they do not need any dollars. That is the implication of that process. They do not appropriate dollars. It is against the law. We have to do that. They do not want us to do it.

The waivers, I might say, also limit eligibility for Medicaid coverage to only those groups of people traditionally eligible for Medicaid. Adults without children, no matter how poor they are, or how much they need health care, are, covered under the administration’s waiver policy suggested by the letter the Senator from Arizona mentioned.

The woman with diabetes would not be covered. She would not be covered. Diabetes is a very time-sensitive illness. Limiting access to benefits in the waiver would mean leaving tens of thousands of Katrina victims without aid.

After Katrina, Louisiana dispatched Medicaid eligibility workers to more than 200 shelters to enroll evacuees in Medicaid. Of the 4,000 potentially eligible families screened in these shelters, more than 1 in 5 were screened out as ineligible. They did not meet Louisiana’s traditional eligibility rules—1 out of 5. No help there. One out of five: You do not meet the traditional screening test.

Our legislation would address that. One out of every three people who have applied for Medicaid in Louisiana following Katrina have been denied coverage. The waiver process is not going to help that out because the eligibility requirements are not raised. Most of these people are denied because they do not meet the eligibility criteria.

With Katrina, the Administration has argued that health care for evacuees’ care in other States. Louisiana, Mississippi, Alabama need our help, not more bills to pay—not now. We could straighten that out later.

It is an outrage that a small number of willful Senators continue to stall this bill. Hurricane Katrina’s health costs continue to spill in waves across the gulf coast region. Victims continue to suffer without proper medical care. Our bill will restore immediate access to basic health care. Our bill would relieve the financial burden health care providers have shouldered. We must act. Thus, at the appropriate time, I intend to join with my colleagues and ask unanimous consent for the Senate to pass our bill.

In fact, I do so now. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 214, S. 1718; that the Grassley-Baucus substitute amendment is at the desk be considered and agreed to, that the bill as amended be read a third time, passed, and that the motion to reconsider be laid on the table, and that all of this occur with no intervening action or debate.

The PRESIDING OFFICER. In my capacity as a Senator from Oklahoma, I object.

Objection is heard. The unanimous consent request is not agreed to.

The Senate from Iowa.

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

NATIONAL SECURITY LETTERS AND PATRIOT ACT REAUTHORIZATION

Mr. DURBIN. Mr. President, the USA PATRIOT Act greatly expanded the Government’s authority to use national security letters, documents issued by FBI agents without judicial oversight, to obtain library records since enactment of the PATRIOT Act. And just 3 weeks ago, the Justice Department again refused my request to make public the number of national security letters that FBI agents have issued since