

The GAO indicates that it would cost around \$20 million or less to install the private sector technology in Medicare. And they have clearly demonstrated that such an investment would save Medicare taxpayers and beneficiaries over \$3.9 billion in 5 years. So, for every dollar we invest, taxpayers will get a \$200 return. I call that a bargain. I want to reiterate: for every day we fail to invest, taxpayers will lose about \$2 million. And more will be lost by individual Medicare patients, sometimes thousands of dollars by a single individual. I call that a scandal.

The Billing Abuse Prevention Act will do three things.

First, it will provide a definite time when commercially available computer systems shall be in actual use to catch billing code abuses by all of the 32 Medicare contractors who examine Medicare billings so errors and abusive billing practices can be caught. HCFA has been given 90 days from the date of enactment to set out the exact requirements under which the 32 Medicare contractors shall have a computer checking system in place. And, it requires that the contractors actually have the system in use within 180 days after enactment.

It is my hope and expectation that this can be done more quickly than that. HCFA should now begin the process to develop the criteria without waiting for the legislation to pass. With the full cooperation of the agency, I am hopeful that the HCFA implementing requirements could be ready by the time the President signs the bill. That will allow the contractors to move more quickly as well.

Many of the 32 contractors are already using the commercially available systems to review private insurance claims. But, some modifications of the systems will be needed to modify the program to match HCFA billing practices. And, the contractors will want to review all of the systems that are available that meet HCFA's criteria and go through the appropriate procurement practices.

Second, the legislation provides that the Secretary of Health and Human Services may keep information about the system confidential. If that is not done, detailed information about the system could be used, to some degree, to get around the system's safeguards. The legislation also provides that the proprietary information about the systems are not to be released. If it became available, the companies that created it might lose a significant part of their investment since other companies could acquire the technical details of the systems. The Secretary is expected to release appropriate information about the system which is in the public interest.

It is important to use commercially available systems because we already know they work and we can put them into place relatively quickly with minor modifications. We save time which results in real savings and we

avoid what might be a large development cost if HCFA tried to create their own system. Another advantage of commercial systems is that they will be continually improved as the private development companies work to further improve their systems to acquire a larger share of the private marketplace.

Third, the Secretary shall order a review of all of the existing regulations and guidelines governing Medicare payment policies and billing code abuse to see what modifications might be appropriate to maximize the benefits of the computer checking systems and avoiding improper payments.

I urge that this legislation be rapidly considered and passed.●

ADDITIONAL COSPONSORS

S. 326

At the request of Mr. HATFIELD, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 326, a bill to prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

S. 440

At the request of Mr. WARNER, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 440, a bill to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 483

At the request of Mr. HATCH, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 483, a bill to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for the other purposes.

S. 607

At the request of Mr. WARNER, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 692

At the request of Mr. GREGG, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 692, a bill to amend the Internal Revenue Code of 1986 to preserve family-held forest lands, and for other purposes.

AMENDMENTS SUBMITTED

COMMONSENSE PRODUCT LIABILITY REFORM ACT

COVERDELL (AND DOLE) AMENDMENT NO. 690

Mr. COVERDELL (for himself and Mr. DOLE) proposed an amendment to the amendment No. 596, proposed by Mr. GORTON, to the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Product Liability Fairness Act of 1995".

TITLE I—PRODUCT LIABILITY

SEC. 101. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) CLAIMANT.—The term "claimant" means any person who bring a product liability action and any person on whose behalf such an action is brought. If an action is brought through or on behalf of—

(A) an estate, the term includes the decedent; or

(B) a minor or incompetent, the term includes the legal guardian of the minor or incompetent.

(2) CLAIMANT'S BENEFITS.—The term "claimant's benefits" means the amount paid to an employee as workers' compensation benefits.

(3) CLEAR AND CONVINCING EVIDENCE.—

(A) IN GENERAL.—Subject to subparagraph (A), the term "clear and convincing evidence" is that measure of degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established.

(B) DEGREE OF PROOF.—The degree of proof required to satisfy the standard of clear and convincing evidence shall be—

(i) greater than the degree of proof required to meet the standard of preponderance of the evidence; and

(ii) less than the degree of proof required to meet the standard of proof beyond a reasonable doubt.

(4) COMMERCIAL LOSS.—The term "commercial loss" means any loss or damage to a product itself, loss relating to a dispute over its value or consequential economic loss the recovery of which is governed by the Uniform Commercial Code or analogous State commercial law, not including harm.

(5) DURABLE GOOD.—The term "durable good" means any product, or any component of any such product, which has a normal life expectancy of 3 or more years or is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986, and which is—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold or donated to a governmental or private entity for the production of goods, training, demonstration, or any other similar purpose.

(6) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from harm (including any medical expense loss, work loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent that recovery for the loss is permitted under applicable State law.