

Congress of the United States
Washington, DC 20515

June 13, 2000

The Honorable Don Nickles
United States Senate
133 Hart Senate Office Building
Washington, D.C. 20510

Dear Don:

We want to see the President sign patient rights legislation into law this year. But to this point, the conference committee on managed care reform has failed to achieve appreciable progress, and that is why supporters of meaningful reform placed the bipartisan House bill before the Senate last week. We were gratified that the vote on this legislation fell only one vote short of passage and demonstrated growing bipartisan support in the Senate for genuine reform.

We have spent two months discussing external appeals, with no resolution. We have made progress in concept, but have not resolved, access to specialists and emergency care, and continuity of care. We have made no measurable progress toward an agreement on holding health plans responsible when their actions kill or injure patients, or on how to guarantee protections for all Americans with private health insurance. We have yet to start negotiations on access to clinical trials, prohibition of gag clauses and improper financial incentives, appeals within health plans, consumer information, and many other important issues. In fact, we have fully resolved only two out of 22 patient protection issues before the conference.

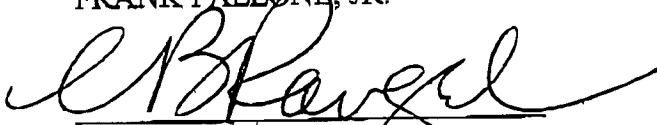
We remain eager to produce legislation that will guarantee every American with private health insurance an effective and independent appeal process when they are denied care and allow them to hold decision-makers accountable when the denial of care results in injury or death. We presented the conference with a proposal on these matters that responded to specific concerns expressed by Republican conferees in our closed door meetings and assured that these protections would be satisfactory. In response, we received a staff memo that ignored our proposals, and contained suggestions that would actually weaken the few protections that patients already have under current law. Our staffs' analysis of this memo is attached.

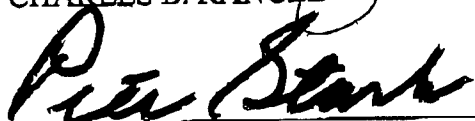
It is plain that the process of closed meetings involving a limited number of members discussing concepts and generalities is a failure. In the limited number of legislative days remaining, the conference can only succeed if we meet in open sessions, pursuant to a defined schedule and agenda, working from legislative language, with the participation of all members. We stand ready to meet with you at any time to discuss serious, detailed proposals that provide a basis for achieving strong, effective patient protections.

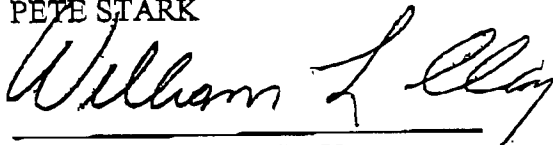
Sincerely,


JOHN D. DINGELL

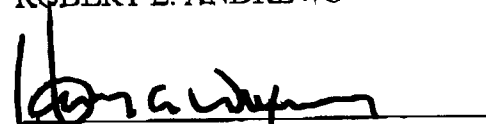

FRANK PALLONE, JR.

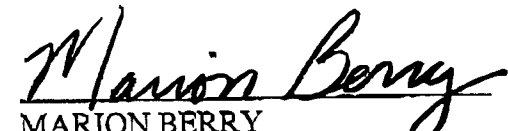

CHARLES B. RANGEL


PETE STARK


WILLIAM (BILL) CLAY


ROBERT E. ANDREWS


HENRY A. WAXMAN

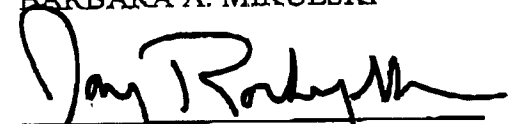

MARION BERRY


EDWARD M. KENNEDY


CHRISTOPHER J. DODD


TOM HARKIN


BARBARA A. MIKULSKI


JOHN D. ROCKEFELLER IV

Democratic Staff Analysis of June 4th Republican Staff Document

- The Republican staff document fails to provide a realistic base from which to work for consensus in the conference. It would be a step backwards from the House-passed Norwood-Dingell bill and, in some instances, it would be a step backwards from current law.
- To date, we have reached full agreement on just two of 22 general provisions in the conference – access to pediatricians and non-discrimination against providers. Critical components of the external appeal program, one of the cornerstones of a real patient protection bill, remain unresolved. Discussions on vital common-sense protections such as access to ob-gyn care, access to clinical trials, internal appeals, prohibition of gag clauses and improper incentive arrangements have not been discussed or have languished without resolution for months.
- Democratic members submitted an offer on May 23rd that offered modifications or clarifications of the House-passed liability and scope provisions, and included proposals to conclude negotiations on external appeals. On June 4th, the Republican staff offered a document that failed to provide a meaningful response to the Democratic offer and instead only generally discussed “remedies,” scope and the tax provisions.
- On liability, the June 4th Republican staff memo did not include a serious proposal. It provided vague generalities on an additional mechanism to enforce external appeals, but it failed to offer any provision to hold health plans accountable when their inappropriate decisions to deny or delay care wrongfully results in injury or death. In fact, under the GOP staff memo, a health plan could never be held accountable for its abuses if it complied with the recommendation of the external review, even if the patient was injured by the health plan’s initial delay or refusal to provide care and could not be helped by compliance with the reviewer’s decision.
- On scope, the June 4th Republican staff memo does nothing to provide meaningful guarantees for any individual not covered by the original Senate Republican bill. In fact, the proposal would reduce current internal and external appeal protections for millions of Americans in state-regulated employer-sponsored HMOs by preempting state laws in these areas for those plans.
- On the tax provisions, rather than attempt to address concerns that have been raised with the Republican proposals, the GOP staff document merely lists the current tax provisions in both the House- and Senate-passed bills. This is clearly not an effort to bridge differences and move forward productively. These tax provisions are sure to exceed \$70 billion in taxpayer dollars over 10 years, yet result in very little new coverage for the uninsured. The Medical Savings Account provision, in particular, would provide new tax breaks for the healthy and wealthy, and could substantially raise the cost of traditional insurance.
- Finally, the Republican memo fails to respond to the Democratic offer on external appeals, leaving critical provisions necessary to assure an effective, independent appeals process unresolved.