

Congress of the United States
House of Representatives
Washington, DC 20515

June 21, 2004

TIME TO RESTORE PATIENTS' HEALTH CARE RIGHTS

Cosponsor the New Patients' Bill of Rights

Dear Colleague:

The Supreme Court today decided an important case determining whether individuals have rights under state law to receive all medically necessary health care under their insurance plans. Unfortunately, the Court held that individuals do not have such rights, essentially rendering meaningless numerous state patient protection laws and renewing the need for federal action on this issue. As a result, we are re-introducing the Patients' Bill of Rights to establish minimum federal law protections and to restore state laws that provide additional health care protections.

For seven years, a bipartisan majority of the House and Senate worked to craft legislation to establish minimum standards for patients' rights when dealing with their health plans. Patients' Bill of Rights legislation passed both the House and Senate on several occasions during the 106th and 107th Congresses. In conference, there was only one key issue that the conferees were unable to resolve: whether patients could enforce their rights in state or federal court and what damages they could receive if they won in court. At the time that Congress was struggling over this crucial issue, the Supreme Court ruled, in *Pegram v. Herdrich*, that medical decisions that involved medical judgment or that involved a mix of medical and administrative determinations could be decided under state law. Patients' Bill of Rights supporters were hopeful that the Supreme Court's decision would permit states to ensure that their residents received proper medical treatment and protect the healthcare rights of individuals. And in fact, after the *Pegram* decision, a number of courts did uphold state laws protecting patients' rights to receive medically necessary treatment.

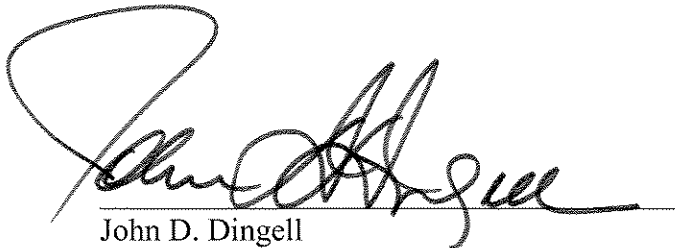
Regrettably, several HMOs decided to challenge these new court decisions. In two cases, *Davila v. Aetna* and *Calad v. Cigna*, the 5th Circuit upheld a Texas law that held HMOs liable for providing negligent medical care. Aetna and Cigna challenged the 5th Circuit Court decision before the Supreme Court; it is that case that was decided unfavorably to patients today.

Because the Court did not uphold the right of states to protect the health care of their residents, federal action is again needed. We plan to reintroduce the Patients' Bill of Rights essentially as it passed the Senate in 2001. Under the Patients' Bill of Rights, patients will be guaranteed certain rights under their health insurance plans including:

- Basic standards for access to care, including clinical trials;
- The ability to gain access to their own doctor, and doctors able to communicate with the patient without fearing HMO retaliation;
- Medical decisions about patient care will be made by doctors according to sound medical principles, not HMO bureaucrats;
- A fair, independent external review process if needed care is denied by their HMO;
- The right to hold their health plan accountable if their HMO's negligent medical decision resulted in injury or harm.

We hope you will join us as a cosponsor of the Patients' Bill of Rights. Over 200 million Americans are covered by employer-sponsored or individually purchased health insurance. Federal law does not adequately ensure that individuals will receive promised healthcare benefits. States have historically set standards for and enforced the healthcare promises made to covered individuals and families. The Supreme Court decision now requires Congress to step in. We urge you to join with us in sponsoring the Patients' Bill of Rights to provide the American people with fair health care treatment for all.

Sincerely,



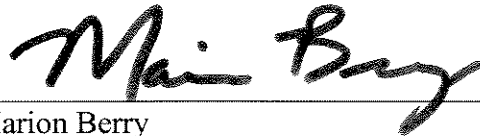
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Ranking Member
Committee on Energy and Commerce



Sherrod Brown
Ranking Member
Subcommittee on Health
Committee on Energy and Commerce



Robert E. Andrews
Ranking Member
Subcommittee on Employer-Employee Relations
Committee on Education and the Workforce



Marion Berry
Member of Congress