

Through this process, I believe House Members in both parties have paid close attention to the constituents back home. A lot of our constituents in Georgia, for example, are saying you all are not going far enough. You are backing off on your promises. You are not doing what you said you are going to do. Maybe in some areas you have gone too far too fast. But people want us to listen, and they want to be assured that what we are doing is in the interests of what is best for the Republican Party but for the American public.

I believe that that is the case, Mr. Speaker. But I must say I worry about our friends on the other side of the aisle, if they are listening to the degree that they need to be listened to. I would urge the folks back home, because of that, to continue writing Members of the House and the Senate and give opinions on how they feel, because I do not think the message in every case is getting through. As we go into the budget process, right now it is even more important than other times.

Mr. Speaker, I yield to the gentleman from California [Mr. DORNAN], if he would like some time.

Mr. DORNAN. Mr. Speaker, I just wanted to tell the gentleman, I want to associate myself with his remarks. I am going to ask for a 5-minute special order here myself to discuss the infamous O.J. Simpson trial. I wanted to let the Chair know that I was going to ask for that when the gentleman is through. I certainly appreciate the 5-minute special order.

Mr. KINGSTON. Mr. Speaker, the gentleman from California is never without an opinion and never without truth and righteousness. It was refreshing to see the gentleman the other night spouting some of his views.

#### THE PROBLEM OF MEDICARE FRAUD AND ABUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, I am proud to kick off a series of 5-minute special orders this evening to address the growing problem of Medicare fraud and abuse. It is shameful that Members of Congress have been virtually denied the opportunity to discuss the leadership's proposal to cut Medicare by \$270 billion, and it is unprecedented its rollback of Medicare fraud law enforcement.

The Republican plan would devastate Medicare to pay for a tax giveaway for the wealthy, but it also misses a golden opportunity to fix a major problem with Medicare. In fact, it actually makes this serious problem worse. The GOP plan actually will make it easier for Medicare cheats to get away with their health care scams. This plan rips off American taxpayers and American seniors.

Many of us are genuinely concerned with strengthening the Medicare system, and we have urged a crackdown on Medicare fraud. I am happy that some of my colleagues have joined with me tonight to talk about this critical issue. I am proud to commend the gentleman from Michigan [Mr. LEVIN] for his commitment to combatting fraud and abuse in Medicare. The gentleman from Michigan plays a key role on the Committee on Ways and Means in the effort to toughen the punishments for fraud and strengthening our enforcement capabilities.

I would like to recognize the gentleman from Illinois [Mr. DURBIN], an original cosponsor of my legislation, the Health Care Prosecution Act, to combat fraud and abuse in our health care system. The gentleman has been a leader in the fight to defeat the GOP's Medicare cuts and to restore integrity to the Medicare program for our elderly.

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I also would like to thank the gentleman from New Jersey, Mr. FRANK PALLONE, and the gentleman from Ohio, Mr. SHERROD BROWN, for joining us tonight. Their work on the Committee on Commerce to remedy fraud and abuse in the Medicare system has been invaluable.

We are here tonight, Mr. Speaker, to let the American people know that the Republican bill does not, let me repeat, it does not toughen enforcement measures. It does not even defend the status quo. Far worse, the Republicans turn back the clock on Medicare fraud enforcement.

Just today, Mr. Speaker, the Inspector General of Health and Human Services and the Justice Department that monitors, the policemen, if you will, the fraud that occurs in the health care system said that the Republican proposal would make it harder for the government to obtain convictions under an anti-kickback statute, and, in fact, would cripple the Justice Department's ability to crack down on health care fraud.

The Congressional Budget Office estimates that stopping the growing problem of fraud could save as much as \$80 billion. And despite this evidence, the GOP plan does nothing to crack down on waste, fraud and abuse. That is because the plan has nothing to do with fixing Medicare, it has everything to do with providing the Republicans' rich political supporters with a fat tax giveaway.

Mr. Speaker, while I am sadly disappointed, I am not surprised, as the Washington Times, not exactly a liberal publication, reported last week Speaker Gingrich dismissed the necessity of cracking down on Medicare cheats by suggesting that we have insufficient jail space to lock up all the crooks in the system. The GOP shows no hesitation to crack down on the elderly, the sick, the disabled, the poor, and the young in their plan. But when

it comes to targeting the real bad guys, the Republicans suddenly express concern about inadequate vacant correctional facility space.

The congressional leadership is not interested in correcting and punishing the criminal elements in the Medicare system. However, I have introduced legislation in this Congress, the Health Care Prosecution Act, to do just that. My bill stops health care cheats in their tracks. It retrieves the financial losses in restitution and fines and it puts the criminals behind bars so that they are unable to pull off more health care scams in the future.

Further, my legislation establishes a temporary health care fraud and abuse commission to study the nature and the extent of fraud in our system. This blue ribbon panel would make recommendations to Congress on innovative approaches to attack fraud.

Mr. Speaker, there are a lot of good ideas out there about how to attack Medicare fraud, waste and abuse. I am sorry that my Republican colleagues have chosen to pursue none of that.

Mr. Speaker, I am delighted to be joined by additional colleagues tonight who will also address this issue of Medicare fraud and abuse and the way that we might address it, and that it is not addressed in the Republican proposal.

#### REPUBLICANS WEAKEN FRAUD AND ABUSE PROVISIONS IN THEIR BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. LEVIN] is recognized for 5 minutes.

Mr. LEVIN. Mr. Speaker, I congratulate the gentlewoman from Connecticut [Ms. DELAURO] for talking about this issue, and I would like to say a few words as a Member of the Committee on Ways and Means.

Mr. Speaker, we worked on this issue. I was deeply disappointed with the product that came out of the committee: \$270 billion in Medicare cuts in order to pay for a tax break, mostly for wealthy families, is bad enough, doubling the monthly premium for seniors in part B, the physician and other provider part of Medicare, is bad enough, especially when we take into account, for example, looking at Michigan, that 85 percent of the seniors in Michigan have an income annually of less than \$25,000 and \$15,000 is the annual income of 70 percent of the seniors.

So doubling the premium is bad enough, Mr. Speaker, but the Republicans went further and they weakened the fraud and abuse provisions of Medicare. They weakened them.

Mr. Speaker, I want to refer to a few documents. There are two sets of penalties involved: one is criminal, where there is intentional serious fraudulent action; and the other is monetary civil penalties, where the offense is less serious. Both of them are weakened.

The criminal is weakened by adding a provision requiring that the significant

purpose of the effort must have been inducing essentially fraudulent or other similar activity.

On this, here is what the Justice Department says, Mr. Speaker. This is of the Republicans that is now in the bill that will be before us on Thursday. "The proposed amendment will seriously undercut our anti-kickback enforcement efforts". This is the Justice Department. The Republicans did not listen to them.

Here is what the Inspector General of the Health and Human Services department says. "These proposals would cripple the efforts of law enforcement agencies to control health care fraud and abuse in the Medicare program and to bring wrongdoers to justice".

Here is what the GAO says about the change in the Republican bill in the criminal statute. "The effect could well be to make it easier to disguise the intent behind kickback arrangements or make disguises currently used more effective in evading prosecution".

In a word, Mr. Speaker, when it comes to criminal sanctions against fraud and abuse, the bill that will be before us on Thursday would make it much more difficult and would weaken our efforts. And, look, the HHS IG points out that the GAO estimates loss to Medicare from fraud and abuse at 10 percent of total Medicare expenditures, or about \$18 billion.

Why then, Mr. Speaker, are the Republicans weakening these provisions?

There is also a weakening of the monetary provisions, the civil provisions, and, here again, there is no reason to do it. Here is what the GAO says. "We agree with the Inspector General of HHS that this new definition of 'should know', which essentially would require proof of reckless activity, would, as drafted, significantly curtail enforcement under the Medicare civil monetary penalty provisions". Significantly curtail enforcement.

Now, why is this being done? The Washington Times, October 4, the headline is GOP's Medicare plan takes hit for weakness in stopping fraud. Why are the Republicans doing this? It is terribly misguided.

Searching for a reason, the Speaker, on October 12, said this. "The speaker defended GOP moves to reduce penalties and enforcement efforts against Medicare fraud by saying it is more important to lock up murderers and rapists than dishonest doctors".

I think the answer is, Mr. Speaker, we can do both. We should, obviously, lock up everybody, everybody who is convicted of murder and rape. However, that is not an excuse to let dishonest providers off the hook.

Mr. Speaker, I urge everybody to take a look at this. This Republican effort is terribly misguided.

## REPUBLICANS MEDICARE BILL WORSENS PROBLEM OF FRAUD AND ABUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I also want to address the problem of waste, fraud, and abuse in Medicare and say that I am very pleased to be a cosponsor, an original cosponsor, of the gentleman from Connecticut, Ms. DELAURO's, bill to deal with the problem.

As she pointed out, she is trying to address this problem. But, unfortunately, the Republican leadership, in their Medicare bill, which we are going to vote on, I understand, this Thursday, does not. In fact, Speaker GINGRICH's proposal, the Republican leadership proposal on Medicare actually makes the problem of waste, fraud, and abuse in the Medicare Program seriously worse.

The reason for that is, essentially what the Republican leadership is doing with this Medicare bill is trying to achieve savings by cutting Medicare to provide money for a tax cut primarily for the well-to-do. So their concern about problems dealing with waste, fraud, and abuse is really relatively minor in the overall bill that they have and that they will bring before the House.

I am concerned, Mr. Speaker, because we had a hearing, we were not allowed a hearing in the Committee on Commerce, which I sit on, to actually deal with the Republican Medicare proposal, but we decided that we would have our own hearing. And the day after the bill was first presented to us last week, we had our own Democratic hearing on Medicare. Interestingly enough, a number of representatives from the various Federal agencies that go after those who abuse the Medicare System, or commit fraud on the Medicare System, testified to the problems that exist in this bill with fraud and abuse.

Essentially, Mr. Speaker, what they say is that the Medicare restructuring proposed by Speaker GINGRICH and the Republican leadership actually weakens the Government's ability to weed out bad practices and Medicare scams. Over the course of 7 years, \$126 billion could be saved by reducing fraud and abuse, but the GOP bill makes the existing civil monetary penalties and the antikickback laws considerably more lenient. According to the inspector general of the Department of Health and Human Services, the Medicare restructuring legislation by the Republicans would substantially increase the Government's burden of proof in cases under the Medicare-Medicaid antikickback statute. And although a fund would be created to direct money recovered from wrongdoers, this fund would not go to further law enforcement efforts.

Now, just to put this in perspective, here we are, pursuant to this Repub-

lican proposal, squeezing every last dime or nickel out of the Medicare Program with these spending caps that limit how much can be spent on Medicare, and in the context of that, with our health care system and the quality of our health care system significantly declining because of these cuts, we are now, instead of addressing fraud and abuse and trying to save some more money there, actually making it easier for fraud and abuse to take place.

Mr. Speaker, I think one of the speakers mentioned that the Congressional Budget Office actually estimated that over the 7 years of this Republican Medicare Program, the regulatory relief would actually incur an additional expense of \$1.1 billion. In other words, it would cost us another billion dollars or more in this Medicare Program because of the relaxation of the laws that deal with fraud and abuse.

Now, I just want to just give some brief statements that were made by June Gibbs Brown, the inspector general of the U.S. Department of Health and Human Services, at our Commerce alternative hearing on October 3, because she basically specifies why it is true that this Republican bill will cripple efforts of the Federal and State law enforcement agencies to control fraud and abuse in the Medicare system.

She says, "We believe that H.R. 2425 contains several provisions which would seriously erode our ability to address Medicare and Medicaid fraud and abuse."

Here are some of the examples she cites. "The bill would make the existing civil monetary penalty and antikickback laws considerably more lenient." She goes on to say, "The bill would relieve providers of the legal duty to use reasonable diligence for ensuring that the claims they submit to Medicare and Medicaid are true and accurate. This will have the effect of increasing the government's burden of proof in cases under the civil monetary penalties law. In an era where there is great concern about fraud and abuse in the Medicare and Medicaid Programs, it would not be appropriate to relieve providers of the duty to use reasonable diligence to ensure that their claims for payment are truthful and accurate."

She then says, "The bill would substantially increase the government's burden of proof in cases under the Medicare-Medicaid antikickback statutes. For the vast majority of present-day kickback schemes, the proposed legislation would place an insurmountable burden of proof on the government."

She then says, "The bill would create new exemptions to the Medicare-Medicaid antikickback statute, which could be readily exploited by those who wish to pay rewards or incentives to physicians for the referral of patients."