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April 3, 1999 - DPC Weekly Report

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THE WHITE HOUSE
WASHINGTON

THE PRESIDENT HAS SEEN

4-5-99

April 3, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

99 APR 3 AM 11:11

SUBJECT: DPC Weekly Report

1. Health Care -- Democratic Patients' Bill of Rights Event: You are scheduled to join Democratic members of Congress in Philadelphia on Friday to highlight the need for strong, enforceable patients' bill of rights legislation -- and to contrast the proposal we favor with the weak version of the bill reported out of the Senate Labor Committee just before recess. At the event, you can announce an Internet-based petition, which is intended to attract over one million signatories, in support of a strong, enforceable patients' rights bill. You also can announce the OPM "call letter" that takes the final step in requiring all participating FEHBP insurers to come into full compliance with the patients' bill of rights.

2. Health Care -- Medicare Annual Cap on Rehabilitative Services: You recently asked about the \$1500 annual cap on Medicare payments for outpatient physical therapy and other rehabilitative services. This cap was included in the Balanced Budget Act at Congressman Thomas's insistence; we had opposed it for fear that it would have an adverse impact on chronically ill beneficiaries. Providers and advocates are now arguing that the cap has had just such an impact, pointing to a recent study showing that almost 13 percent of Medicare beneficiaries incur significant out-of-pocket expenditures as a result of the cap. Senator Grassley has proposed legislation that would allow Medicare beneficiaries to exceed the cap if they have an illness that clearly requires additional services. This proposal, however, may prove very costly; we are scoring it now as well as reviewing alternatives.

3. Health Care -- Medicare Toll-Free Line: HHS instituted on Thursday a new nationwide toll-free telephone line, 1-800 MEDICARE, to help Medicare beneficiaries learn about the new health care options available to them under Medicare+Choice. Callers can talk to a customer service representative in English or Spanish to get information about the Medicare program generally and/or about particular Medicare health plans in a community.

4. Tobacco -- Medicaid Recoupment: We met this week with the major public health groups to discuss ways to build support for our proposal to ensure that a portion of the tobacco settlement funds goes to prevent youth smoking. We urged them to develop a political and communications plan focused on the effectiveness of such programs and the refusal of many states to use settlement money for this purpose. To use just a few examples: the Oklahoma legislature is considering using the money to eliminate highway tolls; Louisiana's governor has

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proposed paying off state debt and funding gene therapy research with the funds; and Rhode Island's governor has proposed using the first installment to balance the budget (which has set off a fierce debate in the legislature). In addition, many states purporting to spend the tobacco funds on public health or tobacco use prevention are merely supplanting current spending, effectively freeing these funds for other uses. The public health community so far has been utterly ineffectual on this issue, but we hope participants in the meeting emerged with a better understanding of the political situation we face and some more effective strategies for dealing with it.

5. Tobacco -- Oregon Verdict: A jury in Oregon last week ordered Philip Morris to pay \$81 million in damages (including \$79.5 million in punitives) to the family of a man who died of lung cancer after smoking for 40 years. The verdict was the largest ever against a tobacco company, exceeding the \$51.5 million verdict awarded by a California jury against Philip Morris earlier this year. Shares of tobacco companies fell sharply this week as a result of the verdict.

6. Welfare -- Child Support Computer Systems: You recently asked about an HHS policy denying federal reimbursement to states that entered into contracts for child support and child welfare computer systems without first receiving federal approval. HHS has applied this policy strictly, refusing federal payments even when the federal government clearly would have approved the contracts. In the past, HHS has denied federal funds to California, Hawaii, Kansas, Nevada, and Pennsylvania on these grounds. In recently reviewing this policy, however, HHS officials discovered that it is in conflict with the department's current policy on Medicaid computer systems -- even though the two policies are interpretations of the same regulation. When it comes to Medicaid computer contracts, HHS provides reimbursement even in the absence of prior approval if the contract meets departmental requirements and the state institutes controls to ensure that it will seek advance approval in the future. HHS officials are now trying to reconcile the two policies; they probably will decide to adopt an agency-wide policy similar to the policy that now is applied in the Medicaid program.

This may just answer your question regarding the ability to submit for review

Get a letter

7. Welfare -- Food Assistance: You recently asked what we could do to ensure that families obtain needed food assistance, in light of some reports that more working families are seeking help from private food banks. We are working to address these issues on two fronts: first, to ensure that states follow the current food stamp law by providing assistance to all eligible individuals who seek assistance; and second, to develop and implement new initiatives to make the food stamp program more accessible to working families.

We have taken numerous steps in recent months to ensure that states follow the food stamp law. USDA has launched a number of investigations of state and local practices, including an inquiry in New York City which found that local welfare offices were not allowing individuals to apply for food stamps on their first visit to the office. (USDA issued a formal warning to New York that it would impose penalties if the city were to continue these practices; around the same time, a federal district court judge issued an injunction prohibiting the practices and requiring the

bill you signed last year. We expect that the GAO will criticize earlier NHTSA studies, but confirm the soundness of the new studies and conclude that .08 BAC laws can be effective in reducing alcohol-related deaths, especially in combination with ALR laws.