

1 estimate.

2 We have the CBO estimate, to be conservative, that yields
3 a \$9 billion net savings in five years so that you will have in
4 the net -- you have two bills. The Child Health Assessment
5 bill and the medical reform bill which, combined, have a
6 substantial savings over the first five-year period.

7 The Chairman: The two bills combined would give you a
8 savings of about \$6,500,000,000?

9 Mr. Constantine; Yes, sir. That is correct, for the
10 five-year period.

11 The Chairman: Now, frankly it seems to me, if we are
12 going to have a first-year cost on the catastrophic bill, that
13 we ought to combine that with either H.R. 934 or enough of the
14 features of H.R. 934 so that we could use some of the savings
15 in H.R. 934 to carry the first-year budget costs of what we
16 have here in the proposal.

17 What is the next item?

18 Mr. Constantine: You have, on the first document dealing
19 with the employment-related catastrophic health insurance
20 proposal --

21 The Chairman: Yes, sir.

22 Mr. Constantine: Initially, what we had listed, Mr.
23 Chairman, were the items which the committee had tentatively
24 approved and in our work, subsequently, with both the health
25 insurance industry and, in part, with the administration from

1 time to time.

2 We have some minor suggestions to make and some issues to
3 raise for you as we proceed here and then the remaining issues
4 and resolution.

5 First, the committee had agreed that there would be a
6 \$3,500 annual deductible for an individual or family above
7 which the catastrophic benefits would be payable. We would
8 just point out that the committee may want to keep in mind that
9 the cost estimate for the total bill so far on the catastrophic
10 is about \$6.5 billion a year, including about \$1.5 billion
11 employee contribution as it is based on your tentative
12 decisions.

13 If you went to a \$3,500 individual and \$5,000 family
14 deductible, that would reduce, according to the insurance
15 industry's estimate, the whole cost by 15 percent which would
16 be \$1 billion.

17 We just suggest --

18 The Chairman: What is that, now?

19 Mr. Constantine: It would reduce if you went to \$3,500
20 individual and \$5,000 family on the catastrophic. You would
21 bring the cost down by 15 percent.

22 In other words, we are not recommending that at this
23 point. We are simply pointing that out.

24 The Chairman: If you have to reduce the cost?

25 Mr. Constantine: That is right. That is one way you can

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1 do it, if you ultimately decided that you had to do t.

2 The Chairman: Yes.

3 Mr. Constantine: The next issue that the Committee had
4 decided was that the deductible amounts would be indexed to
5 reflect increases in the prices, utilization of covered health
6 services.

7 The \$3,500 after two years would be increased as health
8 care prices and utilization change. It would be kept dynamic.
9 That, the committee had previously agreed to.

10 Senator Dole had indicated he is concerned, I think, that
11 the indexing start earlier if possible. We believe that you
12 could start after the first full year. You could start
13 indexing the deductible rather than waiting two years.

14 Senator Dole: Otherwise, you would look at the current
15 rate of inflation. It probably would not continue to be that
16 high, but we are going to lower the deductible by \$500 per year
17 and by the time that you would index, the deductible would be,
18 instead of \$3,500, about \$2,250.

19 I do not know what the impact would be if you delay it one
20 year rather than what we did.

21 Mr. Constantine: It would be considerably less, Senator,
22 but if you started indexing right away, I guess the problem
23 would be people understanding the program that it goes
24 ---either you are talking \$3,500 and then you are talking about
25 maybe \$3,800 right away before a lot of people are enrolled in

1 the program. It just changes around.

2 We believe, at the end of the first full year, it could be
3 indexed.

4 Why do we not say that you put the indexing in effective
5 after the first full year? That would be a compromise, and
6 split the difference.

7 Senator Ribicoff: Somewhere here, I think that we should
8 be discussing the problem of that \$3,500 deductible, especially
9 on low-income people where the \$3,500 is such a disproportion
10 of their total income for all practical purposes, they are
11 ruined before they get help of any kind.

12 There are some of us, Mr. Chairman, who have very serious
13 proposals on this. I think especially Senator Dole and Senator
14 Moynihan and myself and I think there is Senator Baucus,
15 Senator Bradley, who have a concern about this.

16 I do not know if you want to discuss it now, or not.

17 Senator Bentsen; I would agree. I am concerned about
18 that, too. I know that there have been proposals along the
19 lines of making the catastrophic coverage up to 25 percent
20 above the family's income, as I recall -- something like that.
21 It seems to me that is much more equitable, because \$3,500 to
22 someone of low income, there is no way.

23 The Chairman: Up to now, we have been thinking in terms
24 of the catastrophic program's looking after the needs of middle
25 America and expanding the Medicaid program to look after the

1 needs of the low-income people.

2 How would you suggest we handle that, Mr. Constantine,
3 first tell us what we have already, either in the bill or what
4 we have in the law already and how you would suggest meeting
5 the problem.

6 Mr. Constantine: We have three papers for you. One,
7 catastrophic; the second paper is low-income; and the third
8 paper consists of Medicare reforms.

9 You could consider a variable deductible related to income
10 at this point in the context of the catastrophic, or you could
11 take it up when you get to the low-income determination.

12 The Chairman: What about the low-income thing?

13 Senator Ribicoff: I disagree on that.

14 My feeling is that what we are talking about -- we are not
15 treating these people as Medicaid. I think we are putting them
16 in the system with private insurance for them to handle the
17 people who are low-income and where the catastrophic or the
18 deductible is 25 percent or more of their income.

19 I think that is where it is going to be law. My personal
20 feeling is that is where I would want to put it.

21 Senator Dole: We are talking about low-income employed?

22 Senator Ribicoff That is right.

23 Senator Dole: Not just low-income unemployed.

24 I do not care when it is considered, but I do think that
25 some of us have a proposal to make --

1 The Chairman: Let us talk about it, if you want to talk
2 about it. Let's talk.

3 Why do we not turn to whatever suggestions you have got
4 here about the low-income people. If Senator Ribicoff wants to
5 talk about it, we will talk about it.

6 Senator Ribicoff: Let me lay out the following type of
7 program. Worker's whose earnings are less than some
8 agreed-upon amount, which would be offered coverage through
9 their employer, which would provide catastrophic protection
10 after a family had incurred health expenses in excess of 25
11 percent of their income or \$3,500, whichever is less.

12 The coverage provided by the employer would treat all
13 employees as if their deductible was \$3,500 and the premiums
14 would be based on that deductible.

15 At the time the individual signed up for health insurance
16 with their employer, they are told that if their income is less
17 than the scheduled amount, they may qualify for catastrophic
18 protection which begins at a level lower than \$3,500.

19 The individual is interested in such protection, would be
20 asked to declare his prospective family income on the insurance
21 application.

22 At the time when a claim is submitted, the carrier would
23 determine whether such claim was on behalf of an individual or
24 one of his dependents entitled to a special deductible
25 provision related to income.

1 The carrier would reimburse the providers as they would
2 for any insured individual for those expenses covered.

3 The carrier would, from time to time, aggregate the
4 difference between the scheuled amount and the \$3,500
5 deductible that has been paid out.

6 Employees would be notified that the income-related claim
7 has been paid on their behalf. The carrier then files with the
8 Federal government a ilsting and description of such payments.
9 They would be reimbursed in full for such amounts, plus a
10 nominal amount for handling such claims.

11 The government, from time to time, audits through the tax
12 mechanism that individuals were, in fact, qualified on the
13 basis of their income to the subsidies provided the insurers,
14 acting as agents of government, would be held harmless for
15 amounts paid under the system if misrepresentation or fraud on
16 behalf of the individual if declared income is found.

17 The plan, in effect, extends a line of personal credit in
18 the form of subsidy, if needed, to meet unusual health care
19 expenses for low-income persons and families for whom a \$3,500
20 deductible is a far too large out-of-pocket expense.

21 Now, the cost estimate. Approximately \$600 million if no
22 changes are made in the current Medicaid program.

23 If the Administration's proposal for expanding Medicaid
24 eligibility were accepted, the cost of this proposal would be
25 approximately \$260 million, so it is not as large an expense as

1 you could otherwise imagine.

2 We are really talking about \$260 million.

3 Senator Bentsen: What it really does is provide a bridge.

4 Senator Ribicoff: A bridge.

5 Senator Bentsen: For the very low-income, not employed,
6 to middle-income America. I think it provides more equity.

7 The Chairman: Tell us about that, Mr. Constantine?

8 Mr. Constantine: It does create some problems. Again,
9 the cold water ---the problem it creates, number one, which
10 income are you counting? Presumably it is gross income in a
11 prior year for that family.

12 The insurer's would have difficulty in calculating premium
13 because you do not know what your liability is for basic
14 coverage. You know, most of the insurance in this country is
15 basic coverage under the \$3,500. Blue Cross-Blue Shield,
16 private health insurance.

17 They would have a great deal of difficulty calculating a
18 premium when you do not know what your liability is.

19 It also might very well create an incentive for people
20 with private insurance and low-wage employees, basic Blue
21 Cross-Blue Shield, to drop that coverage because they are
22 paying a premium based on a higher amount.

23 Senator Ribicoff: If you will excuse me, as far as
24 insurance companies are concerned, their premium is based on a
25 \$2,500 deductible, so they know how to put their premium in.

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1 If it is less than \$3,500 the government picks up the subsidy,
2 so the insurance companies are in a position to pick it up. We
3 understand that HEW understands this proposal.

4 Mr. Constantine: It is below the \$3,500 I was speaking
5 of.

6 Senator Bentsen: Is that what he is talking about? I
7 thought he was saying that the government stood the whole risk
8 on that under \$3,500 and the company was then paid for handling
9 the settlement of the claim.

10 Is that not what I understood you to say?

11 Senator Ribicoff: That is correct.

12 Mr. Constantine: For example, if someone came after
13 \$2,000 in expense, the government would pick up the next
14 \$1,500.* That is right, Senator.

15 But what I am getting at, below \$3,500 you have basic
16 private health insurance today. Blue Cross, private health
17 insurance. They would have a fair amount of difficulty
18 calculating a premium for an employer with a range of employees
19 in a range of income up to that \$4,500 level.

20 Senator Ribicoff: Once this goes into effect, this
21 program, this program is a substitute for Blue Cross and the
22 other insurance companies.

23 Mr. Constantine: That is exactly right, Senator, for part
24 of it; that is a consideration because that is the way the bulk
25 of private health insurance is.

1 Senator Ribicoff: The premium is charged on the basis of
2 a \$3,500 deductible if they find out they have to pick up
3 another \$1,000 because a person only has \$2,500 to pay, then
4 whatever the mechanism we have pays the insurance company the
5 extra thousand.

6 So, from an actuarial standpoint, the insurance company is
7 in the same position as if they did not have this.

8 Mr. Constantine: No, that is true. They pick up the
9 risk, Senator. What I was getting at was the calculation of
10 the premium to an employer for basic, private health insurance,
11 becomes awkward when you do not know what your liability is up
12 to that \$3,500.

13 The liability varies. For some employees, your
14 liability, in effect, is \$2,000; for others, \$2,500; for
15 others, that kind of thing.

16 Senator Bentsen: I see. You are worrying about what the
17 Blue Cross-Blue Shield type --

18 Mr. Constantine: In the private health insurers, the
19 commercials. It is an incentive for an employer with low-wage
20 employees to drop any private health insurance he may have
21 below the \$3,500 as well as the fact, Mr. Chairman, that IRS is
22 not equipped, nor does the insurer have any incentive, to
23 review claims.

24 Once an employee has reached, say, \$2,000, they have no
25 reason to really look at whether a charge is excessive, or

1 whether the services were necessary, because the government is
2 picking up 100 percent.

3 You know, they get a credit at that point.

4 Senator Ribicoff: The basic insurance pays, first. This
5 is a back-up to the basic and if a person does not have the
6 basic, then this picks it up.

7 Mr. Constantine: What I meant, Senator, once the employer
8 who has basic Prudential or Metropolitan or Blue Cross is at a
9 point where he has incurred \$1,500 expense, because that is 25
10 percent of his income, there is no incentive for anyone to
11 really review the charges or cost between \$1,500 and \$3,500
12 because it is 100 percent reimbursable from the Treasury.

13 Senator Ribicoff: I know, but are we not in a situation
14 if we once agree upon the principle that the deductible shall
15 not exceed 25 percent administratively, how we work it out
16 between the staff and HEW and the private insurance companies.
17 You are going to be able to figure that out.

18 I do not think we are going to have to figure it out. I
19 think the mechanism you will have to figure out.

20 I think you have a basic philosophical point of view that
21 we have to decide, sir.

22 Mr. Constantine: Yes, sir.

23 The Chairman: Let's hear from Dr. Mongan.

24 Dr. Mongan: Mr. Chairman, if I could speak for a moment,
25 we worked fairly extensively with Senator Ribicoff, Senator

1 Moynihan, Senator Dole's staff people on this idea. I must say
2 I originally had some of the concerns that Jay has just raised.

3 In looking carefully at it, they have dialed in this
4 suggestion with a number of those concerns. I think our
5 current view -- although I cannot speak until we see the final
6 total, our costs to the bill -- our current view is, for a
7 relatively small cost, this provision will add considerable
8 equity to the catastrophic deductible and is something we
9 probably can administer.

10 Jay, the major concern you spoke to is one we have both
11 wrestled with for the past ten years. If you are trying to
12 set an income-related deductible, how do you set the policy for
13 the health-insurance premium?

14 This proposal deals with that by saying that the
15 deductible, the insurance company's liability, is the \$3,500
16 and it is the difference between the \$3,500 and the 25 percent
17 of the person's income which would be reimbursed by the Federal
18 government, so that I think that they have dealt with that
19 major question.

20 It is administratively complex, but any of the provisions
21 we are going to have to put together to deal with the entire
22 low-income population will be similarly complex, so --

23 Senator Talmadge: If I may ask a question at that point,
24 what you are saying, as I understand it, is dealing with the
25 insurance companies. The insurance companies are going to

1 assume the risk at a flat \$3,500.

2 Dr. Mongan: That is correct, as I understand the
3 proposal. That is correct.

4 Senator Talmadge: Suppose when you work it out -- of
5 course, the payment is going to fluctuate based on the
6 individual's income.

7 Dr. Mongan: That is correct.

8 Senator Talmadge: What happens to the gain-loss on that
9 differential?

10 Dr. Mongan: The gain or loss becomes a matter between the
11 individual or the Federal government. That is why there is a
12 cost implied with this proposition.

13 The total cost from our preliminary estimates are about --
14 well, I should step back for a moment.

15 Our major concern, we view this as a somewhat beneficial
16 provision if it is done as an addition to some other low-income
17 changes which we believe are necessary.

18 If it is done in that fashion, our estimate is that the
19 costs would be \$260 million ranging upwards to \$600 million
20 depending on the adequacy of the low-income coverage underneath
21 it.

22 It is that money which goes to pay the cost between \$3,500
23 and, let us say, a person triggers in.

24 Senator Talmadge: If I may ask one further question at
25 that point, does that mean that all of the covered

1 individuals are going to have to negotiate with HEW or the
2 insurance carrier is going to handle that problem?

3 Dr. Mongan: What it means, and I think we should
4 understand it, it is a relatively small subset of the
5 population. As this proposal works, the people who would be
6 affected would be -- first, you start with the people roughly
7 in the income ban between \$6,500 and \$14,000.

8 Secondly, it is the subset of that group that have
9 relatively high medical expenses.

10 Third, it is a further subset of that group which does not
11 have better insurance coverage. Most employees have insurance
12 with a lower deductible than that already, so it ends up being
13 a relatively small number of people who would have to come in
14 on a case-by-case basis and work out the details of this.

15 Senator Talmadge: Do you have any comment on that, or does
16 this solve the problem?

17 Mr. Constantine: We do not believe so. We do have the
18 insurance people here, the insurance industry, and Blue Cross.
19 You may want to ask them.

20 Senator Talmadge: Who is here from the insurance
21 industry?

22 Mr. Constantine: The Health Insurance Association.

23 Senator Talmadge: Tell us who you are, and would you
24 comment on it?

25 Mr. Mellman: My name is Richard Mellman. I am from the

1 Prudential Insurance Company.

2 Senator Talmadge: This seems to be one of the sticky
3 problems involved here. If we solve this, we will be making
4 great progress.

5 Mr. Mellman: My name is Richard Mellman, Prudential
6 Insurance Company. We have seen the proposal and studied it.
7 It appears to us that there are three kinds of people in the
8 population who might be addressed by this proposal.

9 The first are the people in employment-based groups who
10 worked for employers where the employer provides catastrophic
11 coverage only, and the proposal addresses itself to that group
12 and would have the Federal government subsidize the lower
13 deductible without putting it through the mechanism of the
14 premium.

15 And that appears to us to be a very constructive and
16 laudible approach.

17 The second group are the people in employer groups where
18 the employer now provides a health insurance plan with a more
19 modest deductible, as most employers do, a \$100 deductible, or
20 whatever. This plan will not do anything for those groups
21 because it is anticipated that the employer is already
22 providing more generous benefits.

23 It is a point that Mr. Constantine pointed out. There may
24 be a disincentive here for employers to cut back on those plans
25 in order to take advantage of the special subsidy that is

1 available if he cuts back to catastrophic.

2 Senator Talmadge: Let me ask this question. You heard
3 Dr. Mongan's comment. You are going to write this coverage.
4 You are rereseting Prudential. You are assuming that your
5 liability is \$3,500. You write that policy on that basis.

6 Now, would you comment on that?

7 Mr. Mellman: As I understand it, the policy would have a
8 \$3,500 deductibe or threshold. The premium would be calculated
9 or paid by the employer on that basis.

10 If we had an employee whose family income is, let us say,
11 \$10,000 so that the threshold would be \$2,500, that individual
12 is entitled to -- I have a lower family income and submit a
13 claim to the insurance company.

14 When he hits, or she hits, the \$2,500 planl, at that point
15 the insurance company, or Blue Cross, as the case may be, would
16 administer the claim and pay it. They would never have
17 received the additional premium for that lower threshold.

18 Senator Talmadge: Let's hear from Dr. Mongan.

19 Mr. Mellman: They would bill the Federal government, as I
20 understand it. The Federal government would reimburse the
21 carrier for that portion of the claim so that it would never
22 pass through the risk premium mechanism.

23 The Chairman: Let me ask one more question. You say
24 there are three situations. You mention one and you said it
25 worked all right. You mentioned second you have a problem

1 where somebody already has a more generous benefit. What is
2 the third? You said there were three types of situations.

3 Mr. Mellman: The third situation is the low-income family
4 who is not a member of a group, the self-employed person or the
5 person who has income other than wags.

6 If you wish to do something for them in the way of reduced
7 deductible, this cannot be accomplished through this mechanism.
8 It will take a different mechanism.

9 Senator Dole: It will have to be through the pools.

10 If you have someone earning 10,000 and they have \$3,500,
11 that would be \$2,500 in this case if we adopted this proposal.
12 They had a medical bill of \$4,000, I assume that the government
13 would pay the first \$1,000 and the insurance company would pick
14 it up from there, pay the last \$500. A \$4,000 bill, a \$10,000
15 income, 25 percent ---that is how it would work, I would guess.

16 Dr. Mongan: The individual, the first \$2,500; the
17 government, \$1,000; private insurer, \$500.

18 Senator Dole: You would have to come back to the low
19 income traditional fund?

20 Dr. Mongan: Yes, that is correct.

21 As I say, we view this as a supplement to whatever
22 low-income decisions you will arrive at later.

23 Senator Dole: Then when we change the other, you would
24 suggest we would reduce the cost substantially, about \$600
25 million to \$260?

1 Dr. Mongan: Yes. The cost of this would change,
2 depending on how adequate the low-income coverage was under it.
3 Our estimate is, it could be from \$260 million to \$600 million.

4 The Chairman: Senator Bentsen, let me understand your
5 so-called disincentive, which concerns you.

6 Jay referred to it, and I heard you refer to it.

7 If you had one person who has a \$10,000 income and
8 therefore has a \$2,500 deductible, do I understand that you
9 think that lowering that from \$3,500 to \$2,500 would encourage
10 to drop private insurance with the \$100 deductible?

11 Mr. Mellman: No, sir.

12 I am saying that most employers already provide insurance,
13 which is more generous than that.

14 Senator Bentsen: That is correct. I understand that.

15 Mr. Mellman: Certainly an employer with a \$100
16 deductible, I agree with you, is most unlikely to drop that,
17 but suppose we have an employer out there with a \$2,500
18 deductible and the law requires him to provide a \$3,500
19 deductible.

20 He may well cut back because, under this approach, the
21 Federal government will pay the full cost of that first \$1,000
22 for his low-income people and thereby relieves himself of the
23 obligation to pay 75 percent.

24 Senator Dole: Could you not guard against that?

25

1 Senator Bentsen: That would only be for those employers
2 who would have a deductible in the area of the \$2,500.

3 Mr. Melman: That is correct, sir.

4 Senator Bentsen: What kind of percentage is that? Do you
5 have any idea?

6 Mr. Melman: We are talking about, as I recall, 25 percent
7 to 30 percent of the working --

8 Senator Bentsen: If you move up to \$3,500, it seems to me
9 that you have got some mitigating numbers there. I seriously
10 question that that is a major consideration.

11 Dr. Mongan: Our sense it is it is a theoretical
12 disincentive.

13 Senator Bentsen: That is what I am saying. I do not see
14 it as a significant disincentive when you have the \$3,500
15 waiting at the one end. Certainly if you get down to a very
16 low deductible, I cannot imagine the most hard-hearted employer
17 doing that.

18 Senator Ribicoff: I am just curious, Mr. Melman, how many
19 of these group insurance policies re over \$2,500? Not many.

20 Mr. Melman: This is a theoretical point. There is a
21 nudge there, an incentive. It is a small, theoretical point.

22 Senator Ribicoff: I think, Mr. Chairman, the problem you
23 have -- I commend you for putting this health insurance. You
24 have been in the forefront with it, but I think it will be all
25 for nought, if the country perceives any health insurance

1 program as being callous or indifferent to the low-income
2 groups and I know your intention is to make sure that the
3 middle-income people do not suffer catastrophe.

4 However, I think that we will have to be very careful not
5 to pulverize the poor. If you take more than 25 percent of
6 their income, you would really have a problem, I think, that
7 would cause a whirlwind of controversy.

8 The Chairman: Let me ask this question. How much money
9 are we spending right now? How much are we spending on Federal
10 plus state? How much are we spending on Medicaid right now?

11 Mr. Constantine: About \$22 billion.

12 Senator Ribicoff: \$22 billion.

13 Mr. Constantine: Yes, sir.

14 The Chairman: \$22 billion.

15 I am perfectly content to add more money in here for the
16 low-income people, but I would like to make a point, while I am
17 willing to do that, and I think we ought to put some more money
18 in here for low-income people to help them. What the principal
19 burden of this catastrophic type thing is, to try to do
20 something for these middle-income people who have been paying
21 and carrying the burden of looking after the poor. They are
22 paying for this \$22 billion and they are not going to get any
23 free lunch out of the rest of it.

24 In other words, \$6.5 billion annually is all going to be
25 cranked into the cost of living. That is all going to be paid

1 for by the consumer, which the middle-income people are the big
2 part of the taxpaying public.

3 So they are going to be paying for anything they are going
4 to get out of this -- no free lunch for them. As far as a
5 class is concerned, they are not paying. They are not getting a
6 free ride here.

7 It is all right with me -- in fact, I am happy to go along
8 with something as long as we can find the money and fund it to
9 take care and do more for the low-income people, but I do think
10 it is about time that we move forward in the area where you
11 have a lot of middle-income people who are not really getting
12 any minimal benefit out of these programs and get wiped out by
13 this catastrophic health bill.

14 That is what I want to be sure we take care of.

15 Senator Dole?

16 Senator Dole: I think that we are talking about \$20
17 million Americans who earn \$14,000 or less. It is a fairly
18 substantial number of working Americans that we are trying to
19 assist in this effort, and the \$260 million, I think, would be
20 a good investment.

21 But, as Senator Ribicoff has indicated, you take away 34
22 percent of their income, it is substantial and we believe this
23 is a good compromise, that addresses not only the concern that
24 the Chairman has, but the working class of people, and I think
25 it has rather wide support in the committee.

1 We have all the votes but Constantine's.

2 Mr. Constantine: No. I want to retreat gracefully, Mr.
3 Chairman, and suggest that the only question remaining ---we
4 will draft it for you. Obviously you have got it, is the
5 equity question of two families with equal incomes, say, of
6 \$8,000. One is employed and the other is not. In both cases,
7 they have similar medical expenses.

8 What you are saying is, if it happens to be an employed
9 family that once they have \$2,000 in expense, general revenues
10 will pick up the next \$1,500.

11 In the case of the family which is not employed, they
12 receive no help from \$2000 to \$3,500.

13 Senator Ribicoff: If you would yield -- clearly, with the
14 first step, we are dealing with the employed. You are talking
15 about the unemployed -- we will get there, either second or
16 third.

17 Throughout every discussion in this committee since I have
18 been here, we have all been concerned about how do you save the
19 low-income people who are self-respecting, who are working, not
20 looking out for handouts, are doing their bit, that really hew
21 the wood and carry the water.

22 We want to protect that. I think it is invidious to talk
23 about somebody who works for \$8,000 and someone who does not
24 work for \$8,000.

25 I think our concern should be how do you protect the

1 people who work for \$8,000. We do not want to put them on
2 welfare, and certainly you are going to put them on welfare, if
3 they are going to pay the first \$3,500 and I think this is what
4 we are really driving at, is a sense of equity, and I think in
5 every one of our states and we are all familiar with people in
6 the \$6,500 to \$14,000 class who are working and doing their job
7 in society.

8 These are the people we do not want to see go under.

9 Dr. Mongan: I would just summarize what I said before.

10 Our view is, if viewed as a supplement to other changes
11 which we believe must be made in the low-income area, I would
12 second everything that Senator Ribicoff said, and I would
13 congratulate them for coming up with this proposal.

14 Frankly, we had tried to do it and did not have this idea.
15 We were hung up on this idea of trying to work it into the
16 premium structure, so I think that we would be quite supportive
17 of this as a good way to provide assistance to a very large
18 number of people.

19 Senator Ribicoff: I want to make a point. I do not want
20 to take the credit for this. Senator Dole and Senator Moynihan
21 had a major role to play in this.

22 Senator Bentsen: Let me say that I really think they have
23 made a major contribution to bringing equity to it, and I am
24 delighted to support it.

25 I want to ask about the third group that there was some

1 question about. How do we stand on the self-employed 26
2 low-income?

3 Has that been taken care of in this approach?

4 Dr. Mongan: Senator, our view is that you could easily
5 take care of it. That group is what is called the residual
6 group who are not regularly employed. We had a proposal for
7 taking care of those people through a public buy-in.

8 Essentially the Committee's tentative decision in July was
9 to deal with that group of the population by establishing state
10 pools through either mechanism. The same twist could be added
11 to the coverage so that group could obtain this same benefit.

12 Senator Bentsen: It seems that we ought to try to work it
13 out where they can.

14 The Chairman: Senator Moynihan?

15 Senator Moynihan: I would just like to make a perhaps
16 more general point confirming what Senator Dole and Senator
17 Ribicoff has made and asked if Dr. Mongan and Ms. Davis would
18 hear us, which is what we are proposing here and as Senator
19 Bentsen has suggested, very much has the support of this
20 committee, and now we are winning Constantine over, reflects a
21 more general view of this committee, which is that the
22 Department of HEW is just too wedded to the notion that
23 benefits go to people who are completely dependent, and it
24 makes it too attractive to beat.

25 And in the question of providing some relief on fuel

1 costs, energy costs in the years ahead under the windfall
2 profits tax, the department could only think of providing
3 benefits for persons who are on AFDC or Supplementary Security
4 Income, and this Committee insisted to know that low-income
5 workers needed to be included for the very simple reason that
6 if support from government only comes to the totally dependent,
7 then the number of totally dependent increases. It follows we
8 are trying to resist the move against that. Senator Ribicoff
9 has been talking this way for 15 years in the United States
10 Senate, I think.

11 The Chairman: It seems to me that everybody here -- all
12 the actors know each other, and Mr. Mongan knows Mr.
13 Constantine, and vice versa, they used to work together on the
14 staff, so I would think -- also, I think you both know the
15 staff legislative assistants of the Senators involved in this
16 and I would think that, as you people spend a little bit more
17 time working on it, you can solve the problem or help reduce
18 the problem that exists about the so-called equity problem
19 where somebody has an already more generous insurance program.

20 How do you work that out with minimal impact on the
21 budget?

22 So here is what we are trying to do. You have a lower end
23 to the thing. You have Medicaid to look after low-income
24 people. Now we want to have a catastrophic program which, in
25 many cases, already is being provided by private insurance.

1 So now we want you to work on the area that lies in
2 between to try to close the gap between the Medicaid,
3 catastrophic, where you take care of these cases, where,
4 because of low-income, the \$3,500 ceiling is a high ceiling, or
5 the \$3,500 threshold is a very high threshold. I am hopeful
6 that you can work it out in something that would have a minimum
7 of equity problems.

8 I would like to see you do that.

9 Senator Ribicoff: Can we vote on the concept, then give
10 the Committee the order to work it out?

11 The Chairman: Fine, as far as I am concerned.

12 All in favor, say aye.

13 (A chorus of ayes)

14 The Chairman: Opposed, no?

15 (No response)

16 The Chairman: We agree on the concept.

17 Senator Moynihan: Mr. Chairman, may we have a roll call
18 vote? I think we would like to be recorded.

19 Senator Bentsen: I thought Mr. Constantine was calling
20 for a roll call.

21 Mr. Constantine: I was just going on to the next thing.

22 Senator Moynihan: I think this is something that Senator
23 Dole has worked hard on, unsuccessfully, in broad unity to the
24 committee. I think a roll call would be appropriate.

25 The Chairman: We are voting on the principles involved

1 here subsequent to voting on the details.

2 Call the roll.

3 Mr. Stern: Mr. Talmadge?

4 Senator Talmadge: Aye.

5 Mr. Stern: Mr. Ribicoff?

6 Senator Ribicoff: Aye.

7 Mr. Stern: Mr. Byrd?

8 (No response)

9 Mr. Stern: Mr. Nelson?

10 (No response)

11 Mr. Stern: Mr. Gravel?

12 (No response)

13 Mr. Stern: Mr. Bentsen?

14 Senator Bentsen: Aye.

15 Mr. Stern: Mr. Matsunaga?

16 (No response)

17 Mr. Stern: Mr. Moynihan?

18 Senator Moynihan: Aye.

19 Mr. Stern: Mr. Baucus?

20 (No response)

21 Mr. Stern: Mr. Boren?

22 (No response)

23 Mr. Stern: Mr. Bradley?

24 (No response)

25 Mr. Stern: Mr. Dole?

1 Senator Dole: Aye.

2 Mr. Stern: Mr. Packwood?

3 (No response)

4 Mr. Stern: Mr. Roth?

5 (No response)

6 Mr. Stern: Mr. Danforth?

7 (No response)

8 Mr. Stern: Mr. Chafee?

9 (No response)

10 Mr. Stern: Mr. Heinz?

11 (No response)

12 Mr. Stern: Mr. Wallop?

13 (No response).

14 Mr. Stern: Mr. Durenberger?

15 Senator Durenberger: Aye.

16 Mr. Stern: Mr. Chairman?

17 The Chairman: Aye.

18 Senator Ribicoff: An aye vote for Senator Baucus, and I
19 think it is safe to cast an aye vote for Senator Bradley, too.

20 The Chairman: Poll them. You can mark those two as
21 voting aye, but poll them also, so we can announce how they can
22 all vote when they record themselves.

23 Mr. Dole?

24 Senator Dole: Before we move on, I also --

25 The Chairman: The yeas are nine and the nays are none.

1 Senator Dole: I would like to thank the Library of
2 Congress and their staff for a lot of input in this, plus
3 everybody else has worked on it, and it has been an idea that
4 originated in the staff, and I think we have had some
5 assistance from insurance representatives, the Library of
6 Congress, other members, and I think we can work it out.

7 The Chairman: Fine. Let's go on to the next point, then.

8 Mr. Constantine: Mr. Chairman, we would also very much
9 want to thank the Library of Congress throughout this whole
10 thing. The Congressional Research Service has just been
11 superb. They have just done a tremendous job with us over the
12 years, and especially now.

13 Item C on the catastrophic, where you tentatively agreed
14 that the covered services in the deductible plan would be at a
15 minimum, at least those types of services presently covered
16 under the Medicare program. An employer catastrophic plan
17 could cover more than that, but at a minimum, it would have to
18 cover those types of services, hospital and so on, physician
19 services.

20 The next thing that you had tentatively agreed to, the
21 definition of an employer, and that is described here. No one
22 has raised any question since that was agreed to.

23 On Item E, the employee share of insurance premium, under
24 your previous decisions, the employee could be required by an
25 employer to contribute up to, but not more than, 25 percent of

1 the premium costs for catastrophic.

2 Item F, the coverage of dependents and in that, the
3 committee's tentative decision was to define dependents
4 essentially as collateral dependents are defined under the
5 Internal Revenue Code.

6 We would simply raise --

7 Senator Dole: There was some question about the lateral
8 dependents.

9 Mr. Constantine: Yes.

10 Senator, the question was this, that we were going to
11 simply have the Committee call their attention to this factor
12 if cost becomes a consideration. That if the dependents were
13 defined as the spouse and children til age 22 rather than
14 collateral dependents, that would reduce the cost according to
15 the insurance industry by \$600 million a year.

16 We are noting that for you. We would lose the coverage of
17 a lot of people, which, I believe, you earlier wanted to bring
18 in, like the older brother, sister, living at home, that kind
19 of thing. A lot of those kinds of people dependent ---those
20 who are dependent on the heads of households, a very large
21 proportion, I think it is 45 percent of the uninsured, are in
22 households headed -- I think it is that -- households headed by
23 an employed person.

24 So the collateral dependency does bring in a lot of the
25 uninsured. We simply wanted to point out that the restrictive

1 definitoin of spouse and dependent children reduces the cost by
2 \$600 million.

3 Senator Dole: Do most private policies cover collateral
4 dependents?

5 Mr. Constantine: No, sir. Most private policies cover
6 the spouse and dependent children to age 22. Certain Blue
7 Cross plans, and I suspect commercial plans, will cover
8 separately. I guess a sponsor dependent for separate premium,
9 that is, a maiden aunt, or somebody like that.

10 They are restricted to the spouse and dependent children.

11 Senator Bentsen: Is that covered by definition of
12 dependants other than the Internal Revenue Code for tax
13 purposes?

14 Mr. Constantine: Yes. That was the tentative decision.

15 Dr. Mongan: This tentative decision by the Committee had
16 gone beyond what we had originally recommended. We had
17 recommended a somewhat tighter definition of dependency as we
18 re-examine this in the intervening time between July and the
19 present, it seemed to us, from our cost-estimating team that
20 the IRS definition is tight enough that it would not increase
21 the cost as substantially as we thought it would have.

22 That is one of the areas that we were in some disagreement
23 with the insurance industry on numbers. We do feel that, in
24 fact, the collateral dependents can be covered for a cost that
25 is only slightly above the cost of doing it without the quota

1 of dependents.

2 Senator Bentsen: Like what?

3 Ms. Davis: Our estimate of the costs without the
4 collateral dependents is \$4.7 billion, which is very close to
5 the insurance industry's estimate of \$5.5 billion. We estimate
6 it would only go up to \$4.8 billion with the collateral
7 dependents.

8 Senator Bentsen: Only \$100 million more for collateral
9 dependents?

10 Ms. Davis: That is correct.

11 Dr. Mongan: The reason is basically because the IRS
12 definitions are tight enough that, in fact, there are not that
13 many of these kinds of people who would be claimable.

14 Senator Bentsen: What was the percentage you were citing,
15 Jay?

16 Mr. Constantine: We just relied on the health insurance
17 industry's estimate that the difference was \$600 million.

18 Senator Bentsen: You were giving the percentage of these
19 families.

20 Mr. Constantine: I am sorry, Senator. What I was giving
21 was the estimate that of the people who are not covered by
22 private health insurance today, something like 45 or 44 percent
23 are in families headed by an employed individual. That could
24 be, for example, the 28-year-old student working on a Ph.D. or
25 something like that who is not covered today, that kind of

1 thing or older relative living in the family.

2 By bringing in the collateral dependents for catastrophic,
3 you pick up a large proportion of the noncovered population.

4 The Chairman: How many are going to fall between the
5 cracks when you take this definition about how many people you
6 are going to have left who are not going to be protected.

7 Ms. Davis: We estimate about 15.5 million people who
8 would either be below the Federal poverty level or eligible for
9 some income assistance or covered under an employment group at
10 any point during the year.

11 The Chairman: You have 15.5 million eligible for
12 low-income assistance.

13 Ms. Davis: No, these are not low-income. 15.5 million
14 people would neither be in employed families nor poor.

15 Mr. Constantine: The total population, 15.5 million out
16 of the total population of what?

17 Ms. Davis: 230 million.

18 Senator Bentsen: Does that include the self-employed?

19 Mr. Constantine: It might include those self-insured.
20 That kind of thing. It is really hard.

21 I think the Chairman -- and I think you are getting at
22 really who are the people who need the coverage who would be
23 left out?

24 Ms. Davis: Of that 15.5 million, about 4.5 million
25 currently have no private insurance, no individual insurance,

1 nor are covered under private programs -- totally uninsured.

2 The Chairman: It seems to me that we ought to try to
3 reduce that number. I would hope we would get down to where we
4 would have more than 1 percent, at most, of the population that
5 would not be protected somehow.

6 We are trying to extend the protection to those who are
7 not covered.

8 Dr. Mongan: Senator, I should point out that residual
9 population on the tentative decisions you have made can come
10 into coverage through the pools and under our provisions would
11 have been allowed to buy into the public program, so that there
12 is a safety net at some point.

13 The Chairman: In other words, I would hope we could have
14 some sort of subsidized insurance for those people that they
15 would be notified. All these other people are protected and
16 you are not. We ought to have some deal for them that they can
17 come in here and participate in the program. How to do it, I
18 do not know. You ought to be showing us how.

19 Senator Talmadge: May I ask a question at that point?
20 Who are these 15 million who would not be covered?

21 Ms. Davis: These are largely the unemployed, part-time
22 employed?

23 Senator Talmadge: Would they not be covered under
24 Medicaid?

25 Ms. Davis: No. This group is not below the Federal

1 poverty level and would not qualify.

2 Senator Talmadge: If they are unemployed, it looks like
3 to me they are right poor. How do you explain that?

4 Ms. Davis: Some of these individuals, for example, are
5 women -- a large majority are women between the ages of 45 to
6 64. They may be divorced, widowed or spouses of persons of
7 aged 65 who get covered under Medicare, but they are not
8 currently covered under group plans. Some are disabled and
9 have additional income.

10 The Chairman: You ought to be able to find a way to
11 reduce that number down. When you really get down to it, all
12 you really have to do is to load these other policies by 10
13 percent and you would have it covered. But some way ought to
14 be found. You ought to be showing us how to do it.

15 Dr. Mongan: What we are saying, we are supporting this
16 broader definition of collateral coverage to get as many of the
17 people through that mechanism as we can. Then we hope, as the
18 low-income discussion proceeds and we continue with the
19 discussion of the pools, we will have an answer for the smaller
20 set of people who are not included in the collateral.

21 The Chairman: Senator Ribicoff came in with a suggestion,
22 Senator Dole, Senator Moynihan, they want to take care of some
23 people who they felt were not adequately protected, but I think
24 here are some. I am glad we did that. I think it is a fine
25 suggestion. I am glad we agreed to that.

1 Once we understand that and agree to that we will be able
2 to explain that to the employer out in Kansas why his Aunt
3 Minnie is on his rolls.

4 The Chairman: We voted here to say that we would use
5 general revenues to take care of these lower income people,
6 these working poor families we are going to use -- and lower
7 income people.

8 We are going to use general revenues to cover the cost of
9 looking after them and we might have to do it to take care of
10 some of these other people.

11 I am just saying that you had better just bring this on in
12 here. Where we fail to reach people, we will have to meet
13 later on and extend it to them and we will have complaints,
14 meanwhile, why did you want to do this? Why did you fail to
15 take care of these people. How unfair it was.

16 Somebody who is unemployed is not protected. We had
17 better try to take care of as many of them as we can.

18 Senator Dole: It is a cost to the government, not the
19 employer. As long as we understand that --

20 The Chairman: The public has to pay for the whole thing.
21 It is always going to be cranked into the product. When you
22 get through with this, whether it is the employer, especially
23 in so far as where the employer is paying for it. You have to
24 put that in the cost of his product, whether he is paying for
25 it in taxes or as a premium.

1 Dr. Mongan: I would like to repeat, we share your
2 concern. We would like to put a program together that covers
3 as many people as possible. Our hope is that yours will cover
4 as many as possible through the employment-related program and
5 then build an adequate low-income program to cover as many of
6 the low-income as we do for the nonpoor, unemployed.

7 We can establish arrangements so that they can purchase
8 coverage, either from a public program or from the pools you
9 have set up on the rate that is more attractive than what they
10 are able to get today.

11 The Chairman: Right.

12 Senator Bentsen: Let me ask a question. Back to what we
13 did before, but comments were just made that colored it a
14 little.

15 As I understand the premiums are being charged to all of
16 those who make an income that puts them under the \$3,500
17 deductible, it is being charged as though it were \$3,500 and
18 the government is really only picking up a subsidy for the
19 differential.

20 Senator Dole: Right.

21 The Chairman: Senator Byrd?

22 Senator Byrd: Along the line of Senator Long's comment of
23 the public will pay for it in the end -- and I think he is
24 right ---what percent is this likely to add to the payroll
25 cost?

1 Dr. Mongan: What the Committee's tentative decisions in
2 July have been?

3 Ms. Davis: On average, about a half a percentage point of
4 payroll. We are talking in the neighborhood of about \$5
5 billion additional on employers 1 percent of payroll; \$11
6 billion, about a half a percent.

7 Senator Byrd: You estimated it would add one-half of 1
8 percent to the payroll cost?

9 Ms. Davis: That is right.

10 Mr. Constantine: That would be total payroll, Senator
11 Byrd. You have to look at it in terms of the payroll as
12 affected. If you split it out across the people who already
13 have the coverage, that is fine, but in terms of the payrolls
14 or the people without the coverage, it is considerably higher
15 than one-half of 1 percent.

16 For example, for the grocery store, or the drug store or
17 the restaurant which does not have the coverage, it could be 5,
18 6. With low-wage employees, it could be 5, 6 and as much as 10
19 percent, which is why you then have the subsidy approach.

20 Subsequently in terms of the effect on payroll, you have
21 to look at the payroll as affected, not all payrolls.

22 The Chairman: Is it not right to say, as far as somebody
23 like the automobile industry is concerned, it may not increase
24 the cost at all. They have policies now that provide a more
25 liberal benefit than what we are requiring. All they have to

1 do is just to modify their policy to be sure that these
2 services are covered, and that is all there is to it, as far as
3 they are concerned.

4 Senator Byrd: That is why it gets as low as one-half of 1
5 percent. Otherwise, with small business it would be
6 substantially more.

7 The Chairman: What we are doing here instead of striking
8 down all the existing insurance, we are simply preserving that
9 in effect, seeking to guarantee that everybody -- that all
10 those policies were protected against this catastrophic-type
11 population.

12 So, in a huge number of cases, there is no increase at
13 all. We sort of lok upon the people who already have insured
14 their workers as being the people with the white hats and we
15 want everybody to have a white hat before it is over with. So
16 we will make others come into line, but we will give them a tax
17 advantage to help do that.

18 Dr. Mongan: I should point out, according to the
19 tentative decisions of the committee, the way that subsidy
20 would work, everybody would be protected in costs over 2
21 percent of payroll. 90 percent would be picked up by the
22 subsidy tentatively approved in July.

23 Senator Ribicoff: Are you going to this J item? Are we
24 in that now?

25 Mr. Constantine: Not quite. G, the effective date of

1 coverage and the continuation of coverage.

43

2 Senator Roth: Before we go off of this conversation,
3 could I ask along the lines of what Senator Byrd asked? What
4 effect has it been estimated this would have on unemployment?

5 Mr. Constantine: Apart from the payroll effect --

6 Senator Roth: Putting people out of jobs.

7 Mr. Constantine: That is an argument that has been made
8 by some people.

9 Senator Roth: What I am asking, do we have any estimates?
10 Frankly, I am very favorable towards doing something in this
11 area, but I think we should know what we are doing.

12 Has CBO or any other economist estimated what the effect
13 would be on additional unemployment because of the additional
14 cost?

15 Dr. Mongan: Dr. Davis' people have been looking at that
16 some.

17 Mr. Davis: We estimated it would be less than \$100,000
18 unless you are talking about fairly substantial burdens on
19 employers and not having any subsidies for the low-wage
20 workers. You do not have a fairly significant number.

21 Senator Roth: The reason I raised that question, you
22 would say some would affect this budget 4 or 5 percent?

23 Ms. Davis: The net effect of this proposal with the
24 subsidy that the Committee has tentatively agreed to is that no
25 employer would have an increase in the premiums of more than 2

1 percent.

2 Senator Roth: I know dealing with Social Security, some
3 of the things there -- CBO, for example, estimated a freeze on
4 Social Security increases which would save 250,000 jobs in
5 1981. We were only talking about one-half of a percent there.

6 I would just be interested in trying to get some figures
7 from CBO or some other group, as to what is the effect.

8 Mr. Constantine: The next item, Mr. Chairman, the
9 effective date -- we will get those figures -- effective date
10 of coverage.

11 The first part defines employees and dependents, as the
12 Committee agreed. Then the Committee made a tentative decision
13 to cover workers who have been employed for at least three
14 months. If they have been employed for at least three months,
15 the coverage would continue for 90 days following termination
16 of employment and then there were special items. Full-time
17 workers for less than three months would get 30 days.

18 There has been a fair amount ---very honestly, the small
19 business people have written in a fair amount of criticism of
20 this. We would suggest that the Committee consider requiring
21 that coverage continue for three months, after 12 months of
22 employment, for someone who has been employed for at least 12
23 months, and for 30 days for someone who has been employed for
24 less than 12 months except in the case of a death.

25 That is where you have a surviving spouse who has been

1 covered.

2 Senator Durenbeger: May I ask the nature of the criticism
3 of the shorter time period?

4 Mr. Constantine: Yes, sir. It was cost, and frankly they
5 were saying I have this fellow, seasonal workers, trial
6 periods, and you are telling me I have to cover him for another
7 90 days. That kind of thing.

8 Even though he has worked for me for three or four months,
9 and you are telling me I have to continue coverage for him for
10 another three months. That sort of thing.

11 The Chairman: It seems to me, the whole thing would be
12 cranked into the rates. It seems to me the coverage for
13 dependent spouse and children ought to be for a year after the
14 employee's death. I do not think that is asking too much.

15 Senator Moynihan?

16 Senator Moyihan: I would like very much to support that.
17 I have a lot of data here, if anybody wants to hear it. It may
18 be that it is so clearly equitable to treat, to distinguish
19 between a dependent child whose parent has died, whose parent
20 has been divorced. There is no distinction between the
21 dependency. It is almost invidious.

22 Senator Dole: That is not the part that is in question.

23 Mr. Constantine: No, sir. We say continue that.

24 Senator Dole: We agreed to that.

25 Mr. Constantine: The part was routine termination of

1 dependents.

2 Senator Dole: If you are employed for less than three
3 months.

4 Senator Movnihan: I think the Chairman made a movement on
5 the next question.

6 Senator Dole: Jay suggested a good one. If you cover
7 those employees for one year three months after termination;
8 cover those employed for less than a year for 30 days.

9 Mr. Constantine: Except in the case of a death.

10 Senator Dole: Right.

11 Senator Byrd: Yes. I think that is desirable.

12 Senator Bentsen: I would go along with what staff has
13 recommended.

14 Senator Byrd: Let me ask a question on the same section,
15 if I may.

16 The Chairman: Without objection, we will agree to that.
17 We could come back to it.

18 Senator Byrd: Why would you pick 25 hour as full-time
19 employment?

20 Mr. Constantine: We are consulting, Senator.

21 (Pause)

22 Dr. Mongan: That is the figure we had had in our bill. I
23 am told we had got it from the standard BLS definition of
24 employment.

25 Senator Byrd: A full-time employee is usually regarded as

1 someone between 35 and 40 hours.

2 Mr. Constantine: We understand, again, going back, that
3 that is essentially standard practice for the health insurance
4 industry for determining and defining a full-time employee for
5 purposes of coverage, so we just paralleled that earlier in the
6 committee for purpose of insurance coverage, again.

7 The Chairman: The next point?

8 Senator Byrd: May I ask on that other point, would there
9 be any interest on the part of the Committee in changing that
10 25 hour figure upward? It seems to me that that is going to
11 require taking into consideration many part-time employees who
12 really are not full-time employees.

13 Senator Bentsen: Mr. Chairman, I believe on that one I
14 would rather see us follow what the industry has been doing.
15 That has been the practice for many years, as I recall.
16 Something on the order of 25 hours.

17 Mr. Constantine: There is a trend towards moving in the
18 industry, moving towards 20 hours as the definition of
19 full-time employment for insurance purchases.

20 Senator Byrd: I withdraw my comment.

21 The Chairman: What is the next point?

22 Mr. Constantine: Unless the following paragraphs on the
23 top of page 2 relate to making sure that premiums are picked up
24 in the case of bankruptcy and notice to the employee so that
25 they are protected, IMH.*

1 Senator Moynihan: I am sorry to interrupt Mr.
2 Constantine. Forgive me. Did we deal with the question in the
3 last paragraph on page 2?

4 Senator Dole: We accepted that?

5 Senator Moynihan: We did? Fine. Excuse me.

6 Mr. Constantine: Yes, sir.

7 You agreed again that there would be no exclusion for
8 pre-existing conditions, that the standards for insurers would
9 essentially be administered by the state insurance departments
10 with the Secretary having residual authority in case of any
11 unusual kinds of things where a state insurance department did
12 not act.

13 Then on the employer subsidy issue, you had agreed that
14 where the cost of the coverage increases an employer's payroll
15 cost by more than 2 percent, that he would be entitled to a tax
16 credit of 80 percent the first year of the excess, 80 percent
17 the first year, 70 percent the second year, 60 percent the
18 third, 50 percent the fourth, and each subsequent year.

19 We did have a suggestion, in that regard, for the
20 committee on the assumption, Mr. Chairman, that the purpose of
21 this, that the gaps in insurance are by industry and the
22 industry needs time to build those costs into the wages and
23 price structure.

24 It would seem inequitable to continue the credit after
25 four or five years for the people who have not done anything as

1 opposed to the people who have been providing coverage before
2 they were required to and we would suggest that you have 80
3 percent credit for the first part-year, 1980, because some of
4 the employers on the effective dates could come in voluntarily
5 and 80 percent the first full year, 70 percent the second full
6 year 60 percent the third, 50 percent the fourth and after the
7 fourth full year, it would go to a regular deduction basis, the
8 same for everyone else.

9 You drop the credit at that point. It becomes just a
10 normal business expense.

11 Senator Ribicoff: I am glad to see you make some
12 modification. Why the four years?

13 What bothers me is the competitive disadvantage you are
14 giving to the person who was not living up to his full
15 obligations against the competitor who is. If you have two
16 small cleaners across the street and one already covers his
17 employees, the others do not, now the cleaner who never did
18 anything gets an advantage over the cleaner who did do
19 something and I think that is unfair because they both had the
20 same wage rates, they both have the same conditions. They are
21 very competitive.

22 If we want to give them a break, do it for a small period.
23 Give them a transition of a couple of years to try to get even,
24 but I do not think that you should give a competitor a
25 four-year advantage over a man who has lived up to all his

1 social and economic obligations.

2 The Chairman: Why do we not say that starting in the
3 third year when the 60 percent credit would be available, at
4 that point, the fellow who is already doing it would get the
5 benefit of that 60 percent credit. He is already doing it.

6 Senator Dole: If he is already doing it, he does not need
7 the credit.

8 Mr. Constantine: If you restrict it, we are concerned
9 about the cost, because that would really start jacking your
10 cost way up. If you restricted it perhaps to small businesses,
11 you might at least bring that down.

12 It is a tough one, Mr. Chairman. The probability is,
13 however, that most restaurants and most barbers will not have
14 the coverage. There would be some. It is unusual in the
15 industry, but the dilemma is the cost Senator.

16 The Chairman: Why not just take starting in the fourth
17 year, the 50 percent would apply to the small businesspeople
18 who are already protecting their employees.

19 So that from that point forward, the fourth year and
20 thereafter, they would have the benefit of the same thing the
21 other guy would have available to him.

22 Mr. Constantine: I guess the problem, Mr. Chairman, it
23 becomes a big tax expenditure at that point.

24 Senator Ribicoff: That is not true. What we want to
25 protect is the man who has been doing it to be in a competitive

1 ---I do not mind giving a break for the man who has never done
2 it, but why should you penalize the man who has done it against
3 his competitor who has not? I think that is your dilemma.

4 Either subsidize everybody, it is over 102 percent, or
5 shorten the transitional period. Either do that.

6 I think it is wrong.

7 Senator Bentsen: Let's shorten the transitional period.

8 Senator Ribicoff: Make it two years.

9 Mr. Constantine: 80 percent the first full year, 70.

10 Senator Ribicoff: A two-year transitional period.

11 Senator Bentsen: Give me an example when you are talking
12 about 102 percent. What are we talking about in the way of what
13 would happen to barber shops, for example?

14 Mr. Constantine: Senator, if the barber shop -- just for
15 the sake of argument --

16 Senator Bentsen: No coverage.

17 Mr. Constantine: No coverage today and they have an
18 average wage of \$8,000.

19 The estimated premium cost of the insurance industry is
20 \$625. Is that correct?

21 That is what I have got here. \$625 which is almost 8
22 percent, 8 percent. In that case, the employer would be
23 responsible for getting the deduction for the first 2 percent
24 and then get a credit of, say, 80 percent on the next 6
25 percent; 80 percent of the balance under which you have agreed

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1 to.

2 Then, the second year 70 percent and then out, it becomes
3 a business expense.

4 Senator Bentsen: He could be having a net of 6 percent
5 increase in costs as a result of this. Is this what you are
6 saying?

7 Mr. Constantine: 20 percent of 6.

8 Senator Bentsen: Without the credits?

9 Mr. Constantine: Without the credits, that is right, sir.
10 It could be 8 percent.

11 Senator Ribicoff: I do not mind giving the full credit,
12 but over two years?

13 That is what bothers me. I do not mind giving the credit.

14 The Chairman: Let me suggest, by way of compromise, that
15 you strat off with the 80 percent, then the second year drop
16 down to 65 percent, the third year drop down to 50 percent.

17 Senator Dole: Then end it.

18 Senator Byrd: Cut it off at the end of the third year.

19 The Chairman: Is that it?

20 Mr. Constantine: Yes, sir.

21 The Chairman: All right.

22 Mr. Constantine: As a matter of fact, if you would
23 instruct us in any committee report to point out that the
24 committee would review the impact to assure that there is no
25 harm being done to small business, at least that gives you an

1 opportunity to review it again.

2 The Chairman: I personally think that the people who have
3 to pay more than 2 percent of payroll, we ought to have a tax
4 subsidy from this point forward.

5 How would we do it?

6 The ideal way of doing it is doing it the way we did it
7 yesterday, where we are cutting back on some unintended
8 windfalls that exist in some of the other programs, but if
9 worse comes to worse, we would have to find a tax or somewhere,
10 but hopefully we could find within the programs that we have
11 enough revenue, at least within the revenues we have, enough
12 revenue to cover it.

13 Reducing some of the unnecessary costs in some of the
14 other areas -- maybe Mr. Roth would cover it by earmarking some
15 of the windfall.

16 Senator Roth: I was thinking of that.

17 The Chairman: I hope I am around here long enough to find
18 a way to pay for it. Obviously, as this thing goes along, you
19 are going to have to find some money to pay for these things.

20 Senator Dole: I would favor the termination at the end of
21 the third year.

22 Would we be able to pick up, provide a tax credit for
23 part-time employees, which would pick up some of that group out
24 there you are trying to cover.

25 Has that been looked at, Jay?

1 Mr. Constantine: I am sorry, Sentaor.

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2 Senator Dole: If we could have the same provision that
3 would cover part-time employes. I assume we are talking about
4 the employee subsidy. Full-time employees only, right?

5 Mr. Constantine: Yes, sir.

6 What you are suggesting is an employer chooses to be in --

7 Senator Dole: Voluntary part-time, will he have any
8 benefit?

9 Mr. Constantine: I do not think we have addressed the
10 question of part-time employees being brought in, but if your
11 objective is to cover as many people presumably, the part-time
12 employee who would want to come in would be the one who has no
13 other coverage.

14 Senator Dole: I am with Senator Long, that we should
15 cover as many of those 14 million as we can. This might pick
16 up some.

17 Dr. Mongan: We would agree this kind of subsidy makes
18 more sense on a transitional than a permanent basis.

19 Senator Dole: Would you agree on part-time employees?

20 Dr. Mongan: Our solution for part-time employees was to
21 have them buy in to a public program. The committee's
22 tentative decision was to deal with that through the pools.

23 To the extent that this may free up some funds to make
24 those pools more attractive, that may be something that we
25 could explore.

1 Mr. Constantine: Senator Dole, the employer does not have
2 to do it. He does not have to cover his part-time employees.

3 If he chooses to do so rather than use a pool it would
4 seem reasonable to us to give a credit for that.

5 Senator Dole: Right.

6 Senator Ribicoff: Senator Dole, I did not see what you
7 are driving at.

8 Suppose you have a houseworker working a full day for five
9 different households. She works an eight hour day 40 hours a
10 week. How would you cover that person?

11 Mr. Constantine: She would be eligible to purchase
12 coverage through the pool.

13 Senator Ribicoff: If someone wanted to pick up you could
14 not, could you? You would only pick up one day?

15 Mr. Constantine: What we were thinking of, Senator
16 Ribicoff, the barber who has a part-time barber who works for
17 him on Fridays and Saturdays, and if the owner of the
18 barbershop wants to include him in the program, I think what
19 Senator Dole was suggesting is that he be permitted to bring
20 him in voluntarily, but not mandatorily.

21 Whatever premium is paid for that part-time barber is also
22 eligible for the credit, for such time as the credit would be
23 effective.

24 I think the day worker is a separate problem that might be
25 dealt with with various low-income things but certainly through

1 pool coverage.

2 Senator Ribicoff: I wonder if this could not be
3 deferred until we reach the other group of workers that we are
4 going to try to provide for.

5 The Chairman: Senator Moynihan?

6 Senator Moynihan: If it is deferred, I think I have
7 misled the committee, or misinformed myself. I wish to raise
8 the question of coverage of dependent spouse or children,
9 whether there should be a distinction between those, that comes
10 about because of the employee's death or because of divorce or
11 separation.

12 I thought the Chairman wanted to change that. If we are
13 going to defer here, could I go back to this matter?

14 The Chairman: Frankly, I think I agree with you that
15 divorce and separation ought to be covered just as though there
16 were a death.

17 Senator Moynihan: I would just like to raise the
18 question. It seems to me, as a matter of equity to the child,
19 there is not a difference in his circumstance.

20 The Chairman: It is not his fault.

21 Senator Moynihan: Typically, to the mother they are in
22 the same situation

23 Mr. Constantine: When that came up earlier, Senator,
24 certainly the assumption was that death was involuntary and
25 that divorce and separation were voluntary acts.

1 Senator Moynihan: It may not be voluntary on both parts.

2 The Chairman: If you start off -- let's say the situation
3 where the wife does not want a divorce and the guy just finds
4 someone else he likes better. He gets a divorce and goes on
5 his way and leaves and abandons that family.

6 If we do not take care of them under this program we are
7 going to have to pick them up on a welfare program. I think
8 you might as well take care of them on this.

9 Senator Ribicoff: A practical situation. I think, Mr.
10 Chairman, if we proceed on the big issues and the staff take an
11 inventory of all these other issues that are splintered, or
12 falling between the cracks, then we are going to have to sit
13 down and have a session of what are we going to do with them,
14 because I think a pattern will evolve. We will have to treat
15 them all about the same, in the same method.

16 Otherwise, you are going to have every type of method
17 used.

18 Senator Moynihan: Fine.

19 Senator Ribicoff: Keep an inventory of those as we go
20 along.

21 Mr. Constantine: Fine, sir.

22 Senator Byrd: Before we leave this, may I ask, Mr.
23 Chairman, the last sentence of J, the portion of the excess
24 mandated payroll costs paid by the employer would not be tax
25 deductible?

1 Mr. Constantine: I see. The portion of the excess
2 mandated -- it is over the 80 percent.

3 What that means, certainly the first 2 percent would be
4 deductible and that example we gave where the balance of 6
5 percent was subject to a credit, the 80 percent of 6 percent
6 ---I guess 6.8 percent is a credit; 1.2 percent, he could not
7 clai that as a deduction.

8 The difference between the 80 percent of the excess the 20
9 percent of the excess, could not be claimed as a deduction.

10 Third, this is a portion of the excess mandated payroll
11 cost paid by the employer, would not be tax deductible.

12 Mr. Constantine: It would not be deductible and subject
13 to the credit, to avoid a double dipping?

14 Senator Byrd: That would apply only where the credit was
15 involved?

16 Mr. Constantine: Yes, sir.

17 And for that amount.

18 Senator Byrd: After the credit expires at the end of the
19 third year?

20 Mr. Constantine: The total amount is subject to
21 deduction.

22 Senator Byrd: It is deductible?

23 Mr. Constantine: Yes, sir.

24 Senator Byrd: Thank you.

25 Senator Durenberger: Mr. Chairman?

1 The Chairman: Yes, sir.

2 Senator Durenberger: We are moving off of J, employee
3 subsidy, now, without resolving it.

4 Senator Dole: We resolved it.

5 Senator Ribicoff: I thought we adopted the Chairman's
6 suggestion and cut it off at the third year.

7 Senator Durenberger: I am not going to give you my speech
8 on alternative system reform at this point, but I just want to
9 go on record as objecting to the size of the subsidy of a
10 system that is least-cost-effective, the catastrophic system,
11 and I think adopting -- I can see all the merits, if we are
12 going to have this sort of a system, of helping out the very
13 small employer and the one who can least afford it.

14 But basically, all we are doing is feeding a system that
15 is not at all cost-effective, particularly when we deal with
16 catastrophic. And I just ---this is the one section of the
17 catastrophic bill that I guess I would have to object to most
18 vehemently, is the one in which the taxpayer is going to
19 subsidize, in short, coverage that is not cost-effective at
20 all.

21 There are no incentives here to hold down costs. It just
22 seems a little ridiculous for me to have the government spend
23 \$2.5 million subsidizing that kind of assistance.

24 The Chairman: Well, we will have occasion, before we
25 dispose of this bill, we will talk about the various things

1 that you have in mind about stimulating more competition and
2 things of that sort.

3 Senator Durenberger: I understand that. I just wanted to
4 make the point at this section of the catastrophic bill that I
5 would appreciate the opportunity when we get near the end of
6 this to speak at greater length.

7 The Chairman: Surely.

8 Dr. Mongan: If I may speak briefly, the Administration's
9 view, and one shared by many of the members, that we also feel
10 that any bill of this sort should have a series of reforms and
11 controls attached to it, and generically we share your concern.

12 We assume we are getting to that discussion as the
13 conversation proceeds.

14 The Chairman: Go to the next point.

15 Mr. Constantine: Mr. Chairman, K, on coordination of
16 benefits.

17 On some of these, they are really technical. No one has
18 raised them as issues so I think you can just, unless the
19 Senators --

20 The Chairman: Let's bypass the technical parts.

21 Mr. Constantine: On the pools, on L, the pools obviously
22 were -- the Committee had agreed that pools would be
23 established in each state to which anyone who otherwise does
24 not have access to catastrophic coverage, through which they
25 would be able to purchase the coverage.

1 This is a description, essentially, of the pool. Further
2 on ---this is just the commitment to the pool ---further on,
3 the additional items for consideration, we have the proposed
4 suggested standards for those pools.

5 This is simply a summary of this.

6 The only thing we would suggest, the only thing absent, if
7 a pool was not established in a state, the Secretary of HEW, or
8 Health and Human Resources, would have authority to establish
9 or arrange for a pool in that state.

10 First, we would suggest on order of priority by looking to
11 establish insurers, making arrangements with them and, failing
12 all else, being able to do whatever he could in that state.

13 On the additional items for consideration, these are
14 areas which the committee either put aside or which were not
15 addressed, the question of whether the coverage should be
16 voluntary or mandatory.

17 What you have agreed to, it is mandatory that the employer
18 offer the coverage but you had not decided whether it was
19 mandatory that the employee accept the coverage, particularly
20 in those cases where he has to pay up to 25 percent.

21 It is an awkward issue. It is conceivable that small
22 employers, given the margin, might discourage a prospective
23 employese if this were voluntary, or a present employee, from
24 electing the coverage, saying, as Senator Roth pointed out
25 about marginal employment, that I can hire you but I cannot

1 afford this additional coverage cost. You are a minimum wage
2 employee. If it is going to cost me, on top of the \$6,000,
3 another \$600 or \$700 for insurance, I just cannot pick you up.
4 That kind of thing.

5 It may discourage employment in that regard. It is really
6 up to the Committee as to whether they want to determine
7 whether it should be voluntary or mandatory on the employee's
8 participation. That is, to require that the employees
9 participate, except under unusual circumstances, or that it be
10 optional with the employee as to whether he wants to
11 participate.

12 Sentaor Roth: On that point, I have been wondering about
13 the impact on hiring teenagers, for example, where we have
14 considerable problems.

15 Has any study been made as to whether or not this would
16 continue to discourage the employment of teenagers? I
17 understand you have some provisions where you attempted to do
18 away with the double coverage, or whatever you want to call it,
19 but I just wonder if a study has been made on the effect of
20 this kind of a program on teenagers.

21 Mr. Constantine: Certainly, if teenagers are marginal
22 employees, are they are in the restaurant where they put that
23 one person on or another, obviously it might have an effect.

24 In fairness to the committee, the mail that has been
25 received from small businesses, I think stimulated in part by

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1 the Federation, does say that this will discourage the
2 employment of that marginal worker if I have to pick up these
3 costs.

4 That is one of the points they are making, if I am forced
5 to do that -- whether that is a valid argument or whether they
6 are --

7 Senator Roth: I am asking this as a question, would it
8 make any sense, if you had it mandatory, to have voluntary with
9 respect to teenagers for limited employment, or something,
10 maybe longer than 90 days. I do not know.

11 Dr. Mongan: This suggestion of Jay's here is, in fact,
12 quite parallel to the way we have dealt with this situation in
13 our proposal which is, in fact, to make it mandatory but that
14 you can opt out if the primary owner has coverage.

15 Our understanding is that that would take care of
16 certainly the vast majority of the teenaged workers, although
17 admittedly not all of them.

18 The majority of them would be able to show coverage under
19 their parent's policy.

20 Senator Dole: What about certain religious groups? Would
21 they be able to opt out?

22 Mr. Constantine: Sir?

23 Senator Dole: Certain religious groups, would they be
24 able to opt out of the program?

25 Mr. Constantine: I do not see why not. Similarly, for

1 example, in the case of Medicare beneficiaries, we are going to
2 to suggest to you as we require under ERISA that the employer,
3 if an older worker is also eligible for Medicare, that the
4 employer simply be required to provide some supplemental
5 coverage to fill in the gaps.

6 That, by the way, would encourage the employment of older
7 workers because it would be less costly.

8 Senator Dole: What is the problem with leaving it
9 completely voluntary?

10 The Chairman: It occurs to me, here is a man who has got
11 some children, he has a collateral dependent, so he elects that
12 he does not want to be bothered. It is one thing for him to
13 wind up being wiped out being catastrophic illness, as far as I
14 am concerned. That does not particularly bother me, to see
15 this idiot wind up being completely wiped out and having to
16 apply for charity and find there is not enough charity to look
17 after him.

18 But it does bother me to have those children and that wife
19 and that dependent have them all suffer because the fellow did
20 not have the good judgment to go ahead and take the insurance.
21 It only costs him 25 cents on the dollar.

22 So often the reason we have a program like this is
23 because, among the lower income people and some of the
24 low-middle-income people, people are just not responsible. You
25 say, all right, now you are covered, and that guy can go out

1 and complain about it, but in due course, when a tragedy befell
2 his family, he would say, thank the Lord that the government
3 has this program.

4 I can recall people who complained about Medicare -- oh,
5 the government should not get involved in that and they were on
6 the other side, the government should not get involved. But
7 when their old mother or father had to go to the hospital for a
8 long hospital stay, what did they say? Thank the Lord for
9 Medicare.

10 It seems to me at some point we have to think our purpose
11 is to see that people are protected and if they do not
12 participate then we are left with a situation where we, as
13 taxpayers, have to take care of these people because obviously
14 when they have a long, terminal illness, for example, somebody
15 has to look after them. We have to do it, because those people
16 opted out.

17 I just think that that is unfair to the people who
18 participate.

19 Senator Dole: I wonder if the insurance industry has any
20 view on this as far as voluntary or mandatory participation?

21 Mr. Schiffer: I am Michael Schiffer from Connecticut
22 General, Senator.

23 Traditionally, the insurance companies have favored a
24 voluntary approach on the theory that most people are
25 responsible and will, in fact exercise that responsibility and

1 the number of people opting out would be extremely small.

2 I understand your desire and your need to cover as many
3 people as you can possibly cover under this program.

4 Therefore, I would say if it is universal coverage that you are
5 after, then you would have to think seriously about going the
6 mandatory route.

7 Senator Dole: Are there any exceptions?

8 You mentioned where there is other primary coverage, that
9 might take care of most teenagers. If there are certain
10 religious groups --

11 Mr. Constantine: Certainly.

12 You would have a different kind of coverage for Medicare,
13 for example, and the opting out would not just be teenagers,
14 but where you have the husband and wife both employed, one
15 would just file with one employer and say they are covered
16 under the other policy and the employer would not have to pay
17 twice under those circumstances.

18 You could opt out.

19 Dr. Mongan: I guess a major point I would like to make, I
20 would like to second everything that the Chairman said. Those
21 are exactly the reasons why we favor the mandatory coverage.

22 With respect to the religious exclusions, we do not have
23 any specific ones in our bill. In fact, I guess the major one
24 which jumps to mind are the Christian Scientists, and we do
25 cover the Christian Science Sanitorium as a benefit, so they

1 would not be in a position of not receiving any benefit.

2 So our position has been for mandatory coverage and we
3 have, thus far, not had any specific exclusion.

4 Senator Byrd: May I follow up on Senator Roth's question?

5 Many businesses are encouraged to employ a distributive
6 education student, students in high schools who are
7 participating in distributive education programs.

8 If a business were to employ one or two such students,
9 what is their position under this -- the student's position
10 under this program?

11 Dr. Mongan: If they are less than 25 hours a week ---as I
12 believe the majority of those are ---they would not be covered
13 under the program.

14 Senator Byrd: If they are 25 or over?

15 Dr. Mongan: If they are 25 or over, I return to the
16 answer of Senator Roth. Again, as we move towards mandatory
17 coverage, most of the family units from which they come should
18 have coverage through the primary owner and they would certify
19 coverage through that primary owner.

20 There would, admittedly, be some teenagers working more
21 than 25 hours a week who do not have coverage under primary
22 contract but since it is a rather small number -- we will get
23 some numbers for you, if you would like --

24 Senator Byrd: All right. Thank you.

25 Senator Roth: One further question.

1 If I understand the provision, if a summer firm, for
2 example, hires a person for three months in the summer, they
3 would have to continue that insurance for three additional
4 months?

5 Mr. Constantine: One month. If you were a full-time
6 employee, Senator, under the previous decision they would have
7 had to continue it for 90 days. Now it is 30 days following
8 the termination of employment.

9 Senator Roth: You are saying to all the summer places
10 that they will have to supply it for four months? I do not
11 know if that is a problem or not.

12 Dr. Mongan: In our bill, we had ten weeks, 25 hours. I
13 do not recall the Committee's tentative decision.

14 Mr. Constantine: Four weeks, full-time.

15 Mr. Schiffer here said, has commented on the mandatory
16 approach in here?

17 Mr. Schiffer: I think, Senators, obviously there is a
18 legitimate difference of opinion that could be stated over this
19 particular provision and it seems to me, I guess, that as you
20 read the committee staff recommendation which allows for an
21 opt-out to avoid duplicate coverage, you probably have about
22 the right sense of balance there and the right solution to the
23 problem.

24 Senator Ribicoff: Does HEW, the staff and the insurance
25 industry come to the same basic conclusion and method?

1 Dr. Mongan: On this issue.

2 Senator Ribicoff: I wonder if you write up on behalf of
3 the three of you --

4 Mr. Constantine: Essentially as drafted here.

5 Senator Ribicoff: That is it.

6 Mr. Constantine: Yes, sir. With a minor modification
7 with respect to a Medicare beneficiary.

8 Senator Dole: I move we adopt that recommendation.

9 Senator Byrd: Would the Senator withhold temporarily?
10 The staff is not in agreement, as I understand it, with four
11 weeks versus ten weeks for summer employment.

12 Dr. Mongan: I do not want to indicate disagreement. On
13 July 1 this was discussed by the Committee. Former
14 Under-Secretary Champion said he could accept four weeks. It
15 was more advantageous.

16 Senator Byrd: Four weeks.

17 They would have to be employed four weeks before they
18 could be covered?

19 Dr. Mongan: Yes.

20 Sentaor Byrd: The original proposal was ten weeks before
21 they would be covered.

22 Mr. Constantine: No, sir.

23 What we are agreeing on is the issue of whether it is
24 mandatory or voluntary. As far as the definition of full-time
25 employment is concerned, that was previously tentatively agreed

1 by the Committee to constitute a four-week's averaging 25 hours
2 a week.

3 In answer to Senator Roth --

4 Senator Byrd: HEW said something about ten weeks.

5 Dr. Mongan: What I am saying, our bill as originally
6 drafted had ten weeks.

7 Senator Byrd: You would have to be employed ten weeks
8 full-time before you would be covered.

9 Dr. Mongan: In the discussions in July, however, former
10 Under Secretary Champion-- and we are reiterating -- agreed
11 with the Committee when it was discussed, he agreed with the
12 Committee's tentative decision to make it four weeks.

13 He, if you will --

14 Senator Byrd: Without disagreeing with the decision, why
15 was it changed from ten weeks to four weeks?

16 Mr. Constantine: Senator Byrd, that more closely
17 approximates the kind of coverage which private insurance
18 provides. After you have worked for an employer for a months
19 where you have group insurance, you pick up the employee after
20 that.

21 Senator Byrd: Does it not create more of a problem in so
22 far as teenagers are concerned, and in so far as summer
23 employment is concerned?

24 Mr. Constantine: It may very well. It creates some
25 problems with certain seasonal employees.

1 As far as teenagers, many of them -- for some of the
2 teenagers, certainly, an unknown number who have no family
3 coverage, where they do not have a parent employed, because
4 they would automatically be picked up as a dependent under
5 that. It would bring an employer into a situation of
6 considering whether he wants to pay for that insurance for that
7 teenager.

8 I guess what the original tentative decision was was to
9 follow essentially standard private insurance practice, which
10 is essentially four weeks.

11 The Chairman: You are not protected until you have been
12 working four weeks?

13 Mr. Constantine: On a full-time, for four weeks -- at
14 least four weeks, yes sir.

15 Senator Dole: We have agreed to that.

16 The Chairman: Let's go on to the next thing.

17 Senator Ribicoff: I think the vote on whether we should
18 do mandatory --

19 The Chairman: What was the Dole suggestion?

20 Senator Dole: I suggested we adopt the staff suggestion.

21 The Chairman: All in favor, say aye?

22 (A chorus of ayes)

23 The Chairman: Opposed, no?

24 (No response)

25 Senator Dole: We have already taken care of employer

1 subsidy.

2 Mr. Constantine: Yes, sir. You have taken care of the
3 employer subsidy.

4 Senator Dole: The effective dates.

5 Mr. Constantine: That, frankly, was an error. We just
6 repeated it twice in the mimeo.

7 On the effective dates, Bob Hoyer has worked with the
8 insurance industries on those effective dates, and the
9 administration, I think, thinks those are not unreasonable
10 effective dates.

11 Mr. Hoyer: Basically we distinguish between employers who
12 now have some health insurance and those who do not. Those who
13 have no catastrophic health insurance protection, no protection
14 at all, would be given until one year after the date of
15 enactment to provide the mandated coverage to their employees.

16 Other employers, those who are covered under contract,
17 would have until the contract termination date during the
18 second year in which to upgrade the catastrophic health
19 insurance to meet the requirements.

20 Senator Dole: Why would they have more?

21 Mr. Hoyer: Pardon me?

22 Senator Dole: Those would some coverage would have a
23 longer time than those with no coverage?

24 Mr. Hoyer: Yes, sir.

25 Senator Dole: What is the rationale?

1 Mr. Hoyer: The rationale was, first of all, it is much
2 simpler to market a policy for an employer who has nothing now.
3 Also, it is more convenient to change a policy for an employer
4 who is not covered at the end of their contract period.

5 And you could say that contract periods ending at a sooner
6 point than after one year would have to be modified, I guess.
7 We wanted to spread it over two years because the insurance
8 people felt it would give them more time to deal with the
9 problem of rewriting all these contracts.

10 Senator Dole: All right.

11 The Chairman: Without objection. We ought to come back
12 and look at these dates at the time we get ready to enact a
13 bill. Then we can look at this precisely.

14 Senator Dole: One year on pools?

15 Mr. Constantine: Yes, sir.

16 The Chairman: All right.

17 Mr. Constantine: The penalty for failure to comply --
18 that is, an employer who fails to provide coverage, or offer
19 the coverage to his employees -- would be a payment to the pool
20 equal to 150 percent of the pool rate and that amount would be
21 used to subsidize the coverage for the low risk and the others
22 on the assumption that many of his employees, if he does not
23 provide the coverage, would go to the pool.

24 As it is, as it were, nor would that be eligible for a
25 credit. So that is a fairly substantial incentive for an

1 employer to comply.

2 There is no reason for him to provide the coverage.

3 The Chairman: This gets us to another point that involves
4 jurisdiction. It seems to me we ought to think in terms of
5 simply providing a tax of that amount and we could worry then
6 if he collects that much, if the tax going, so the tax would
7 exceed what it would take to provide for his workers and, in
8 due course, we could make an appropriatoin or something to
9 provide for those people.

10 In other words, if the penalty is a tax, he pays the tax
11 for failure. He does not want to insure his workers. He pays
12 a tax. That is an uninsured employer tax.

13 So that not many of them would pay it. Practically nobody
14 but them. I think we would find a way to have an
15 appropriation, then, authorize an appropriation to pay the tax
16 into the pool to take care of those people.

17 Senator Dole: What happens to the employee in the
18 meantime, who did not have coverage?

19 Mr. Constantine: Immediately he could get coverage
20 through the pool himself.

21 The Chairman: The pool.

22 Senator Dole: He may work for a year and not have any
23 coverage.

24 Mr. Constantine: This is a problem we had, and I thought
25 of -- the employee who buys his coverage through the pool under

1 those circumstances loses the employee contribution.

2 In other words, if the cost of his coverage is \$600 if he
3 gets it from the employer, he pays about \$150 and the employer
4 that \$450 on his behalf.

5 If we tax the employer and that money goes to the pool,
6 the employee is still obligated -- we had not thought of that,
7 Senator. He still has to purchase that coverage, at best, for
8 \$600. He has to pay the full amount.

9 The tax penalizes the employer, but it also penalizes the
10 employee, unless there is some way to kind of offset that, to
11 give that employee a credit.

12 The Chairman: I think, for starters, if the employer does
13 not do it, he owes a tax enough to pay in the pool to provide
14 for all these people. Just take that money and pay for them.

15 On the other hand, if the employer does what is expected
16 of him and the employee does not participate then the employee
17 pays the tax.

18 Mr. Constantine: Or you could give that employee who
19 purchased the coverage through the pool, Mr. Chairman, a tax
20 credit equal to what he would have gotten from -- let the money
21 come to the Federal government. Make it a tax on the employer,
22 but let it flow to the Federal government and the employee
23 could purchase the coverage equal to what the employer
24 contribution would have been.

25 Senator Dole: We need to protect against that.

1 Also, it seems to me if we have -- not everyone is going
2 to be sophisticated enough to know whether they have coverage
3 or not. Say you do not have any coverage and the employer does
4 not provide coverage. You incur a lot of bills and there is no
5 policy.

6 What does the employee do?

7 I guess he sues the employer.

8 Dr. Mongan: Senator, there is not an absolutely perfect
9 answer to that question, but I would point out, we use this
10 same general mechanism, 150 percent tax as the enforcement
11 mechanism, in our proposal aas.

12 While we are dealing with a world where the routine
13 is a fairly high deductible and most of the people who are
14 affected by that are people who are hospitalized at some point,
15 and although the person is not sophisticated, the hospitals are
16 generally quite sophisticated in looking for sources of
17 payment.

18 So I would suspect, with the majority of those people, the
19 hospitals would contact the pools, just as ow, if somebody
20 comes in for coverage and does not know he is eligible for
21 Medicaid, the hospitals are often the ones who make the
22 referral.

23 Senator Dole: If that is the case, as soon as the
24 employee arrived at the hospital, he could participate in the
25 pool?

1 Dr. Mongan: Under the way our mechanism has been
2 structured, yes. We have this public program in the pool and
3 we could deem him eligible and the payment would be made later.

4 Senator Dole: Sheila, do you have a problem with that?

5 Ms. Burke: Senator, the decisions with respect to the
6 pool design have not yet been agreed to. We cannot be sure
7 that an individual will be covered by walking into the pool if
8 they indeed were supposed to be covered by their employer and
9 were not and have these bills.

10 It is assuming we can walk into a pool. We have not yet
11 made that decision, so the individual could potentially be
12 liable for those amounts that could have been paid had the
13 coverage that was mandated been made available.

14 Dr. Mongan: That reminds me, another one of the arguments
15 we had raised for our residual public plan as opposed to the
16 pools, if the Committee continues with its tentative decisions
17 to have pools, I guess we would be hopeful we could work out
18 some kind of arrangement parallel to what we had had.

19 Mr. Constantine: Mr. Chairman, Senator Dole, Bob Hoyer
20 suggested that one approach might be simply to say that the
21 employee is entitled to the coverage as a matter of right and
22 he is protected on an employed basis to the pool -- in other
23 words, you make the pool whole by transferring this tax to the
24 pool and he is then covered by the pool from that time on
25 automatically to pick him up from the time that he was

1 initially eligible after he completed that four weeks of
2 employment and so on, so that you do not have that gap, because
3 the pool ordinarily would not pick him up for pre-existing
4 condition and he is in the hospital at that point. It is a
5 Catch-22 type of situation.

6 We think, if you will permit us, that we could devise
7 something --

8 The Chairman: I suggest that you work on that between now
9 and tomorrow.

10 Senator Ribicoff: Mr. Chairman, I will not be here
11 tomorrow. On this phase of it, there are two proposals. If we
12 could either take them up now, or we could take them up on the
13 6th when we meet again, whatever suits the Chairman.

14 Senator Dole: Are we finished with this?

15 Senator Ribicoff: I do not know if we are going to finish
16 this.

17 The Chairman: We could hear it right now.

18 Senator Ribicoff: I think you have one problem, two
19 problems.

20 The problem of a person with a chronic illness that
21 extends over a number of years. Now, the \$3,500 is a
22 reasonable catastrophic deductible if it occurred in one year,
23 but suppose a family faces a person with a long-term
24 illness that exceeds one year.

25 I just saw a possible alternative. If a family's covered

1 expenses exceed \$3,500 in one year, the deductible for the next
2 year would be \$2,500. The \$2,500 deductible is exceeded in the
3 second year, the deductible in the third year would be \$1,500.

4 In other words, we are trying to save people from ruin and
5 we do not argue with the \$3,500, but what if you had these
6 long-term illnesses that go beyond one year.

7 I do not know. Have you given any thought to that, HEW
8 and Jay, that situation?

9 Mr. Constantine: Your 25 percent proposal that you
10 approved earlier, Senator, would certainly, in the case of the
11 lower income families, moderate that \$3,500 deductible
12 substantially, bring that down quite a bit.

13 I guess a cost problem -- it is the same reason under
14 Medicare you make a disabled person -- a disabled person today
15 has to wait two years before he is covered for Medicare,
16 eligible for Medicare. It was a straight cost consideration,
17 Senator.

18 Senator Ribicoff: How high would this be actuarially?

19 Dr. Mongan: We talked to your people yesterday about
20 this. We would like to be able to look at some cost estimates
21 for this. The only general statement I can make, speaking for
22 the administration, is of course our deductible was \$2,500
23 instead of \$3,500 anyway, so I can certainly support the \$2,500
24 in the second year.

25 Our ultimate phase is -- we are just submitting the first

1 phase of the legislation -- the President favors legislation
2 with lower deductibles in the first phase. The deductible we
3 put forth is the \$2,500.

4 I would be glad to see if we could pull together some cost
5 material on how many people might be impacted by this kind of
6 thing.

7 Senator Ribicoff: Could we defer this, Mr. Chairman?

8 The Chairman: Yes.

9 Senator Roth: If I may raise a related question, I think
10 you raised a valid point. The other side of the question,
11 there was some discussion last year earlier when this thing was
12 brought up, after you passed the threshold, there is 100
13 percent coverage, as I understand it, and I take it no
14 limitation as to how much would be paid.

15 One of the things that concerns me, Mr. Chairman, if you
16 do not build in any restraints it is like some of these other
17 programs we have been dealing with. We find there will be some
18 who may overutilize it, if you want to put it that way.

19 Have any studies been made -- I have a great deal of
20 sympathy with what Senator Ribicoff has been saying. You have
21 somebody who has a long-term illness. What happens the second,
22 third, fourth year? Do they have to go through these same
23 thresholds each year?

24 And the other side of the coin, from the point of view of
25 costs, once you have reached that threshold, there is no reason

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1 not to try to have Cadillac treatment, if you want to call it
2 that.

3 It seems to me where we have had problems with a lot of
4 our programs in the past, costs can be -- having the patient or
5 person receiving the benefit, having any reason to maintain
6 costs within a reasonable area, if you pass this \$3,500 what
7 restraints are there on the individual from seeking the most
8 expensive care?

9 I am not sure I fully understand this.

10 We do not want to find ourselves five years down the road
11 where costs have ballooned and we find it difficult. We can
12 never reduce -- I wonder how much of a factor this is.

13 The Chairman: What is the Department's response to that?

14 Dr. Mongan: Our response to that is as follows. That is
15 a problem we already face with a very large percentage of the
16 population who have fairly good health insurance coverage
17 already, generally without copayments, at the deep end of the
18 coverage, so to speak.

19 More specifically, to answer the question, we would
20 propose that we would have PSRO review of the services provided
21 under this benefit package so that we would have the same kind
22 of utilization review mechanisms that we have with the
23 Medicare-Medicaid program and the private insurance have shown
24 some interest in utilizing also.

25 I think, in a way, a more important answer -- and we have

1 been concerned about this issue of utilization -- as you talk
2 about these costs beyond \$3,500, the concern over utilization
3 is a little less than the older costs where there is some
4 concern with the malingering, if you will, than someone who has
5 incurred that many expenses and is certifiably ill, if you
6 will, and at that point, it becomes more of a matter of trying
7 to deal with the medical judgments involved than it does with
8 the kind of judgments that the patient has control over,
9 whether he is going to go in and see the doctor that first time
10 or whether he is going to get an extra chest x-ray.

11 By the time the patient has incurred \$3,500 --

12 Senator Roth: You are talking about family now, and
13 \$3,500 -- how much does the hospital cost today? I think they
14 cost \$200 or \$300 a day, do they not?

15 It is a pretty low threshold -- not to the person paying
16 it, do not misunderstand me, not low to the person who pays it,
17 but as far as medical expenses, they are ---I really think, Mr.
18 Chairman, maybe it is all right. I have some real concern that
19 we are opening up the door again to some abuses that could be
20 very expensive and once you have them in place you never can
21 cut back.

22 The Chairman: As I understand it, though, the kind of
23 services that we would be providing for the patient who is ill
24 is the same type of service that he would have been paying for
25 himself up until the \$3,500 had been paid? IUs that not right?

1 Let's assume he goes to the hospital and has two weeks.
2 The decision on whether he wants a private room or whether he
3 wants to be in a semi-private room or a ward, that decision has
4 been made while he is paying for it on the first \$3,500 part of
5 the bill.

6 The kind of services that are available to him would be
7 the same services that were being provided at the point where
8 he was electing whether to go the more expensive route or the
9 least expensive route.

10 Would that not be the case?

11 Dr. Mongan: I think that is the case. The point I am
12 trying to make, we try to separate out the decisions that the
13 patient can influence, like private versus semi-private rooms
14 or whether or not to get a **selective** service or something,
15 from the kinds of decisions that were really made by the
16 physicians.

17 That is really where we try to put most of our emphasis on
18 the kind of review mechanisms.

19 Senator Roth: Let's face it. The review mechanisms have
20 not been all that successful. The administration itself has
21 been complaining that the greatest explosions in cost are the
22 medical costs.

23 We have set up all of these procedures which hopefully, in
24 time, will help but here, I do not see whether there is any
25 real restraint, no restraint on the medical profession, on the

1 insurance profession or on the patient.

2 Experience has shown in the past, under some of your Blue
3 Cross and other programs, a very substantial difference in cost
4 where the patient pays some small percentage.

5 Going to the point you raised, Mr. Chairman, it is not
6 only a question of whether you have a hospital room or you are
7 in a ward, as to how many days you stay there.

8 I must say you are going to have to set up a tremendous
9 review to do it that way. I do not have a great deal of
10 confidence.

11 I think there is nothing like having some incentive, or
12 disincentives, as you may want.

13 I would rather, in a way, have a threshold a little lower.
14 I am not trying to save money in the broad sense of the word.
15 A threshold a little lower, but somewhere to have some
16 incentive on the patient himself to make sure that he is
17 getting the kind of care that he wants, but not being in a
18 position to abuse it.

19 Dr. Mongan: We certainly share your concern under any
20 program of this sort. We need appropriate hospital
21 reimbursement mechanisms, appropriate controls on utilization.

22 Senator Roth: There is no substitute -- I do not care
23 what you say -- for the individual patient. That is a review.
24 All you are talking about is building a bigger and larger
25 bureaucracy to review it.

1 What I am saying, I am talking about disincentives to the
2 individual. I do not think that those are any adequate
3 substitute.

4 Dr. Mongan: Our only concern, Senator -- I would say
5 briefly, putting that load on the patient particularly with
6 respect to expensive hospital stays when the patients
7 generally, although there are certainly some marginal instances
8 when he is -- the patient generally does not discharge himself.
9 It is his doctor who decides he should stay another day, or
10 three other days. To put the burden on the patient of the
11 physician's decision as to how long he needs to stay in the
12 hospital --

13 Senator Roth: He is doing that before he reaches the
14 threshold.

15 I am just fearful that we may find ourselves with some
16 kind of a looming cost. Do not misunderstand me. We want to
17 make sure that all of these individuals have good, adequate
18 care. Any time you give 100 percent of costs, there are going
19 to be individuals for one reason or another who can utilize it.

20 Take the case of Senator Ribicoff, you are discussing,
21 where we will have some people who have illnesses extended over
22 several years, very expensive, and they should have that care,
23 and there is no reason, if you know that you are going to be
24 hospitalized -- or take medical care throughout the year to
25 necessarily try to keep those costs as reasonable as possible.

1 What bothers me is that we could be opening up a door that
2 we are going to try to close later on, because of the
3 ballooning costs just as we are in some of these other
4 programs.

5 I wonder why it does not make some sense to either say
6 that they pay 5 percent, even half that, just to give some
7 reason for the patient himself and his family to say let's take
8 a second look before we run this cost up.

9 Dr. Mongan: Senator, our problem with doing it, it erodes
10 into the financial protection or financial security offered by
11 the catastrophic program. With the costs of hospitalization
12 running as high as they are, as you pointed out earlier, that
13 sum itself could mount up rather rapidly.

14 So that we were attempting, if you will, to build the
15 discipline in.

16 Senator Roth: Have any studies been made as to the
17 potential costs of this? Let's say 100 percent, then after
18 that have 5 percent, or go down a few percentage points.

19 As the cost rises -- I have seen too many programs here
20 where we say t is going to cost a few hundred million dollars
21 and down the road it has cost billions.

22 Then everybody says -- that is when you get no cooperation
23 from the Congress because once you have these in place, it is
24 very difficult to take away, as we all know.

25 Mr. Constantine: Senator, a lot of costs we do not cover.

1 Our patient, the individual, is still out of pocket.

2 The insurance companies have an incentive whether they do
3 the job or not to moderate costs because that results in making
4 them less competitive in terms of their premiums.

5 The biggest portion of the cost --

6 Senator Roth: As far as that argument is concerned, all
7 insurance companies are in the same, competitive position.

8 Mr. Constantine: Some are more competitive than others.

9 Senator Roth: What I mean is they are playing by the same
10 rule in this case. Everything is reimbursed after \$3,500.

11 Mr. Constantine: Most of them have, for example, the
12 semi-private room. They will not pay for a private room.

13 Most people, in our experience, are not really
14 enthusiastic about staying in a hospital if they have been
15 there that long.

16 Senator Roth: I have heard doctors and nurses say
17 otherwise on that. I find it pretty comfortable myself.

18 Mr. Constantine: Then I have to echo Dr. Mongan.

19 Senator Roth: Are we concerned -- I would just like to
20 say, any studies that have been made as to what might be an
21 impact? I know of some cases in the private sector where costs
22 just went out of hand where it was 100 percent.

23 Mr. Constantine: We can get the administration to give us
24 the induced costs. They have done that on the other proposals;
25 all the various national health proposals have something called

1 an induced cost.

2 What you are referring to --

3 Dr. Mongan: What we do have, and will try to get to you,
4 we do have information that shows -- I think we can pull
5 together some information, some value studies that show the
6 impact of patient cost-sharing on the utilization of various
7 services, but it does tend to show me, and I think most people,
8 that the impact is highest on the kinds of things you might
9 think of as most elective. It tends to be fairly care on
10 dental care, fairly high on drugs. It tends to be fairly low
11 on hospitalization, again because of the point I raised
12 earlier.

13 Senator Roth: Thank you, Mr. Chairman.

14 Senator Ribicoff: There is just one point I will present
15 to HEW and staff to work with Senator Bradley's staff and mine
16 to get some information. No plan takes into account the
17 problem of various expensive drug costs in certain diseases and
18 the question of whether you could work out a problem where you
19 will have a long-term chronic disease where the drug costs are
20 very high, where the Secretary would list those drugs and list
21 that disease and in the list he would make sure there is no
22 abuse, lke in tranquilizers or sleeping pills.

23 We are all by ourselves here and there is no sense going
24 into it, but I would think you would want to look into.

25 Mr. Constantine: Like the Ribicoff amendment in 1972 that

1 the Committee and Senate approved under Medicare and Medicaid?

2 Senator Ribicoff: Try to look into this. The staff has
3 worked with it, and Senator Bradley's staff. We what the costs
4 would be and how you could work it out to prevent abuses and
5 yet have a fairness.

6 I do believe, Mike, we are adjourning on this.

7 Mr. Stern: Until tomorrow morning at 10:00.

8 Senator Ribicoff: The Committee will stand adjourned
9 until 10:00 tomorrow morning.

10 (Thereupon, at 12:40 p.m. the Committee recessed, to
11 reconvene at 10:00 a.m. on Friday, November 2, 1979.)

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