GOP Medicare Drug Plan A Slow-Working Katrina

The face of the Newt Gingrich-Tom DeLay scam called "Medicare reform" became clear on Jan. 1, 2006, when the long-awaited prescription drug benefit program passed by the DeLay-controlled Congress in 2003 went into effect. According to media reports around the country, and leading elected officials, the plan's implementation, especially for low-income seniors who are eligible for both Medicaid (means-tested indigent care) and Medicare (the senior citizen entitlement), resulted in a disastrous cutoff of, and/or price-increase in, life-saving medication for tens of thousands of seniors. Responsible officials in more than a dozen states were forced to step in with emergency aid, in order to prevent predictable deaths. The National Senior Citizens Law Center and representatives of a number of state governments called it "a major public health crisis."

"This is absolutely one of the fully expected transition problems, and it will resolve itself," said Joe Antos, a health policy "expert" at the neo-con American Enterprise Institute—who added that this evidently planned disaster might take weeks or months to "resolve itself." And indeed, Democrats who had opposed the plan had predicted that the transfer of reponsibility for providing drugs to the indigent, to private health and pharmaceutical companies, which have no limit on how much they can charge, would result is widespread hardships, if not deaths.

So, the question is, transition to what, and at whose expense?

The answer is that the new plan is geared to simply writing off tens of thousands of the elderly, who are considered "too expensive" to be supported by society, while pouring money to Republican cronies in the health-care "industry"—much as the victims of Katrina in the poorest regions of New Orleans and Mississippi have been left to fend for themselves—or die.

What Was the Plan?

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), was touted as one of the major accomplishments of the Bush Administration in that year, and during the 2004 election campaign. With the cost of this promise of drug coverage for seniors being estimated at approximately $400 billion, then-House Majority Leader DeLay had to twist a lot of arms in order to pass it through the House. As it was, the bill was only rammed through by means of threats, bribes, and an all-night session which violated the House rules. Immediately after passage, it was revealed that the cost would be at least $100 billion higher.

But the reason for the high cost was not the bill's generosity in providing for senior citizens. One of the major aspects of the legislation was the provision of subsidies to private insurers and health maintenance organizations, which were to take over provision of drug benefits. Another was the creation of a special fund which would pay businesses to retain coverage of their retirees. But most shocking of all, was the fact that the MMA *explicitly prevented* the program from lowering the price of drugs by carrying out bulk purchases of drugs, a measure which has demonstrated the ability to reduce the cost significantly.

And what was the anticipated result for senior citizens? Well, it was known that the Medicare premiums would go up. In return, seniors were entitled to "shop" among various health-care providers, and would receive some monies to defray their drug costs, although there was no cap on how much they would pay. As for those elderly poor known as "dual eligibles," who qualify for both Medicare and Medicaid, Medicaid would stop paying for their drugs, and they would now have to handle the payments themselves through a Medicare-approved private insurance plan.

Days of Crisis

It was within this "dual eligible" crowd—a total of 6.4 million people—that the crisis erupted on Jan. 1. Tens of thousands of seniors went to their pharmacies, and found that they were either not registered for the new plan, or were forced to pay high co-pays for drugs on which their lives depended. Many people panicked, and began to call the Centers for Medicare and Medicaid Services (CMS) "help line," to no avail. It is at this point that the states began to intervene.

In California, for example, the state had to announce emergency Medi-Cal coverage for seniors, after 20% of all seniors switched into the new "benefit," couldn't get their meds. Sen. Dianne Feinstein (D-Calif.), who had voted for the Medicare Reform Act, denounced its implementation in a statement: "The result is a major health emergency in California, particularly for people with chronic and debilitating diseases who rely on multiple medications daily to keep them alive. In my view, the state of California is absorbing a Federal cost caused by incompetence."

California, Illinois, New Jersey, and Pennsylvania were the biggest of the states to be forced to intervene. A spokeswoman for New Jersey's Department of Human Services told *USA Today,* "Once we saw what was happening, we knew that we had to step in and be the safety net"—for the disease of Bush-Cheneyism.

The Administration's CMS, headed by former drug executive Mark McClellan, is acting the part of "FEMA" in this unfolding disaster. The CMS is trying to push the burden of this debacle onto pharmacies, insisting that they fill all prescriptions provisionally for 30 days, without being assured of any payment. Pharmacies are unable to get through to the private insurers which have been invited in as middlemen in the Medicare drug benefit; or they find that the drugs seniors bought on Medicaid, are now not covered under Medicare, etc. CMS, which had 150 people on call to answer phones in Washington, suddenly hired 4,000 more in the second week of January, indicating the level of chaos.

In a Jan. 13 letter to McClellan, New York Democratic Senator Hillary Clinton pointed out that help lines are inaccessible, for pharmacists and patients; that incorrect information is being provided to callers, often resulting in exorbitant copays being demanded; and Medicare's computer system and website are experiencing frequent failures. She wrote:

"For millions of Medicare recipients, including those who are residents of a long-term care facility, navigating the system to resolve enrollment issues is impossible. As a result, beneficiaries are paying increased copayments, going without medications, and otherwise not receiving the benefits that were supposed to result from [Medicare] Part D. I have heard reports that patients are now being hospitalized because they cannot access the drugs they need.

"The situation is particularly acute within the mental health community, where patients who are stabilized on medications must fight to remain on those medications, instead of being forced to switch to medications to meet the requirements of their private plan.

"Many of these issues would be mitigated if transition plans, through which patients are supposed to be able to access short-terms supplies of drugs while these issues are being sorted out, were operating as designed. Unfortunately, the individuals at your agency staffing the hotline—the people who are charged with giving correct information to beneficiaries—in some cases do not even know that these transition plans exist."

The Next Eruption

Once the immediate transition period ends, there is another trainwreck that can be expected. That will result from the fact that the MMA bill calls for the *states* to recompense the Federal government for 90% of the cost of its providing prescription drug benefits for the "dual-eligible," i.e., the poor, in their states.

This aspect of the bill is called the "clawback" provision, whereby the states are required to take monies from what the Federal government pays them in Medicaid (an amount which is as yet unclear for 2006, due to the stalemate over the Federal budget), and repay the Federal government 90% of the estimated prescription drug expenditures. These payments are due monthly. And while the percentage is scheduled to go down to 75% in 2015, it is going to be demanded "in perpetuity."

In addition, the MMA says that if the states don't pay, the Federal government will simply deduct the amount (plus interest!) from its scheduled Medicaid payments.

(This demand is in stark contrast to the fact that the Federal government is refusing to recompense the states for the emergency payments which they are currently being forced to make, in order to keep seniors caught in the chaos alive. Demands from governors and Senators that the Administration pay up, are currently being raised.)

But, all indications are that numerous state governments are refusing to comply with the clawback provision—thus risking precisely such Federal action. The governors of Texas and New Hampshire have already announced that they have no intention of sending money to the Federal government.

A look at the overall situation of Medicaid—which is funded by matching grants between the states and the Federal government—helps explain why. First, the Medicaid rolls are skyrocketing, because of the increase of poverty, and reduction in employer-funded health-plan coverage in the nation. Between 2001 and 2005, enrollment went up from 33 million to 53 million people. Second, the states already are being forced to cut back on basic health-care services for the poor, due to the shortage of funds.

In fact, the whole concept of Medicaid as a safety net for the poor is being ripped apart in the largely Republican-dictated budget bills. The latest Health and Human Services budget, which is still awaiting final reconciliation between the House and the Senate, creates gaping holes in that net, including allowing the denial of care to the needy if the Medicaid patient can't afford to make a copayment. The bill also eliminates certain standards of care for children, pregnant women, and those with disabilities.

It is for this reason that the Democratic Party leadership in the House has declared that the bill has to be further revised. "Every single House Democrat opposed this immoral bill because of the harmful cuts in student loans, health care, child support enforcement, and other assistance for seniors and low- and middle income families," House Minority Leader Nancy Pelosi (Calif.) wrote, in a Dec. 22 letter to House Speaker Dennis Hastert (R-Ill.). This bill, she added, "fails the moral test by slashing assistance to the middle class and our most vulnerable citizens for the sole purpose of giving more tax breaks to the wealthiest of our nation."

In addition, numerous Democrats are now considering amendments to the MMA.

But if the Democratic leadership doesn't act soon, it is going to be Katrina all over again.