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Sorry folks, Sarah Palin is (partly) right

The intelligentsia have been quick to dismiss former Alaska governor Sarah Palin's http://www.facebook.com/note.php?note_id=113851103434>claim that, under President Obama's health plan, "my parents or my baby with Down Syndrome will have to stand in front of Obama's 'death panel' so his bureaucrats can decide...whether they are worthy of health care."

No one ever accused Palin of being a health policy expert, and many found her hyperbolic term "death panel" off-putting. But that should not distract voters from this reality: President Obama has proposed a new body that would enhance Medicare's ability to deny care to the elderly and disabled based on government bureaucrats' arbitrary valuations of those patients' lives.

It is right there in the legislation now before Congress, and it is called the http://www.whitehouse.gov/omb/assets/legislative_letters/IMAC_bill_071709.pdf>Independent Medicare Advisory Council.

Medicare already has the statutory authority to reduce the amount it will spend on elderly and disabled patients, but largely cannot exercise that authority. Federal law says that Medicare may deny coverage for services that are not "reasonable and necessary," but gives no guidance on what "reasonable" and "necessary" mean. That effectively leaves the issue in the hands of the bureaucrats at the federal Centers for Medicare & Medicaid Services.

"In theory," <http://content.nejm.org/cgi/reprint/353/14/1516.pdf>> writes Tufts Medical Center's Peter Neumann and colleagues, "the CMS could interpret Medicare's statutory authority to cover 'reasonable and necessary' services as a license to use cost-effectiveness analysis," i.e., to deny care. "To date," however, "this course has proved to be impossible."

Why? Political resistance from the medical industry (which prefers that Medicare pay for everything) and the Sarah Palins (who don't trust bureaucrats to make those decisions) prevent Medicare from using cost-effectiveness criteria. Former CMS chief Mark McClellan notes that a mixed record of judicial interpretations and some specific congressional actions, for example on broad coverage of cancer treatments, have tied Medicare's hands somewhat. But he agrees: "I do think that political pressures have limited the agency's ability to go further."

Enter the Obama administration, which submitted to Congress legislative language that would create IMAC and give it broad authority to recommend "reforms to the Medicare program." In effect, IMAC would enable Medicare to overcome the political resistance to government rationing.

Some facets of Medicare would be beyond the reach of IMAC's unelected bureaucrats— but not Medicare's interpretation of "reasonable and necessary." The stimulus bill and the House reform plan deny federal agencies conducting comparative-effectiveness research the power to "mandate coverage, reimbursement, or other policies for any public or private payer." Obama places no such restrictions on IMAC.

Unless Congress rejects IMAC's recommendations within 30 days, they would become law. The administration would have license to implement them "notwithstanding any provisions of this Act or any other provisions governing the Medicare program."

Palin was dead wrong about a separate proposal to have Medicare cover advance care planning. Paying doctors to help seniors sort out their preferences for end-of-life care is consumer-directed rationing, not bureaucratic rationing.

Yet that error hardly excuses the media's mishandling of Palin's "death panel" claim, particularly since Obama himself corroborates it. Obama's first pick to head his health reform efforts—former Senate Majority Tom Daschle—proposed an IMAC-like panel despite the fact that "doctors and patients might resent" the panel making decisions about "matters of life and death." Back in June, in response to a question about "subjective" end-of-life decisions, President Obama <http://abcnews.go.com/Politics/HealthCare/story?id=7920012&page=1>">said, "I think we have to have rules." And who would make those rules? His IMAC proposal tells us.

Lest you think this too Orwellian to become reality, consider that this type of government rationing already happens in the United Kingdom. Britain's National Institute for Health and Clinical Excellence (or "NICE") generally refuses to cover medical treatments that cost <http://content.nejm.org/cgi/reprint/359/19/1977.pdf>">more than \$35,000 per year of life saved.

Whatever one thinks of Sarah Palin should not distract from this truth: President Obama proposes to let government bureaucrats decide who gets medical care and who does not.

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