

Bypassing congressional confirmation process

Obama makes recess appointment of new chief of Medicare and Medicaid

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President Obama utilized the Fourth of July congressional recess to appoint Dr. Donald Berwick as the head of the Centers for Medicare and Medicaid Services (MMS), bypassing the Senate confirmation process and provoking sharp criticism from the congressional Republican right and right-wing media outlets.

Nominated in April, Berwick fills a position that has been vacant since 2006. The administration sees his role as key in implementing the cost-cutting features of the health care reform Obama signed into law in March.

As chief of MMS, Berwick will preside over the agency that finances the health care services of 100 million Americans. He will be tasked with implementing some \$500 billion in cuts to the Medicare program for the elderly and disabled over a ten-year period. The administration has portrayed Berwick as a champion of “patient-centered care” and an advocate of a “common-sense approach” to health care.

In fact, Berwick is a proponent of the reactionary research and findings of the Dartmouth Atlas of Health Care study, which contends that many of the procedures and treatments provided by US hospitals are unnecessary, and that major cuts to health care services can be carried out without lowering health care standards. (See “Obama nominates cost-cutting advocate as Medicare and Medicaid chief”).

As the president and CEO of the Institute for Healthcare Improvement (IHI), a non-profit organization based in Cambridge, Mass., Berwick has worked for the reform of the health care industry through lowering costs and reducing waste. In his book *Escape Fire: Designs for the Future of Health Care*, he

criticizes “the dangerous, toxic and expensive assumption that more is better.”

Berwick openly advocates rationing of health care services, stating in an interview in *Biotechnology Healthcare* last year, “The decision is not whether or not we will ration care—the decision is whether we will ration with our eyes open.”

In line with the arguments of the Dartmouth Atlas research, Berwick argues that as much as half of all health spending could be cut without detrimentally affecting patient care. In a 2005 interview in the journal *Health Affairs* he said, “I have said it before, and I’ll stand behind it, that the waste level in American medicine approaches 50 percent.”

The *New York Times* noted June 21 that Berwick has specifically targeted advanced medical treatments, as well as end-of-life care for the elderly. They quote him as an advocate of the reduction of “the total supply of high-technology medical and surgical care” and “the use of unwanted and ineffective medical procedures at the end of life.”

At the 1993 annual conference of the IHI he urged health care providers to “reduce the use of unwanted and ineffective medical procedures at the end of life,” saying, “Using unwanted procedures in terminal illness is a form of assault. In economic terms, it’s a waste.”

Appearing on last Sunday’s television talk shows, Obama adviser David Axelrod said the president’s recess appointment of Berwick sought to avoid a “political circus” as the November elections approach, arguing that the appointment of the MMS head was simply “too important” to wait for a congressional hearing..

In reality, the administration’s move was aimed at

bypassing a contentious confirmation process, in which Berwick would have undoubtedly faced grilling from Senate Republicans on Obama's health care overhaul, as well as favorable statements the appointee has made about Britain's National Health Service (NHS).

Obama's decision to utilize the recess appointment was both unusual and anti-democratic, as such appointments are usually reserved for those cases where a nominee faces a Senate filibuster or other procedural stalling, after having testified before Congress. Berwick, however, has never appeared before a congressional hearing. The administration was clearly seeking to avoid this process.

Senate Finance Committee Chairman Max Baucus, Democrat of Montana, reportedly turned down a Republican request to hold a hearing on the nomination last month. Baucus subsequently issued a mild rebuke of Obama, commenting, "Senate confirmation of presidential appointees is an essential process prescribed by the Constitution that serves as a check on executive power."

Congressional Republicans have cynically targeted Obama's health care plan, seizing on the very real rationing and cost-cutting measures in the legislation to oppose any measures that they claim could pose a potential threat to the for-profit health care industry, or threaten any redistribution of wealth.

In particular, they have criticized statements Berwick has made on Britain's health care system. In speeches and articles celebrating the 60th anniversary of the NHS, he said he was "in love with the NHS," adding, "The NHS is not just a national treasure, it is a global treasure."

Berwick wrote that in Britain it was recognized that "sick people tend to be poorer and that poor people tend to be sicker, and that any health care funding plan that is just must redistribute wealth."

Of particular concern to Republicans, Berwick urged the British, "Please don't put your faith in market forces." He wrote that in the US "competition is a major reason for our duplicative, supply-driven, fragmented care system."

Berwick did, however, point to another attraction of the British system. A key virtue of the NHS, he said, was "you cap your health care budget," making clear that he would like the US to draw on the British experience in health care rationing.

Such statements, however, have not stopped the right-wing media from demonizing Berwick as a socialist. In a July 12 article, the *Wall Street Journal* wrote of the health care overhaul—legislation aimed at slashing billions from Medicare and reducing service and treatments for millions of ordinary Americans—"ObamaCare, in short, is almost certainly the largest wealth transfer in American history." They argue that Obama's recess appoint of Berwick was aimed at concealing this.

Reactionary Fox News commentator Glenn Beck described Donald Berwick as the second most dangerous man in America, "He's a global redistribution of wealth socialist guy," he said.



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