

Criteria for Evaluating Health Care Reform Proposals

1. **Does the reform proposal include the necessary conditions to make it possible for people who pay for health care to get good value for their money—**

Many people who advocate for particular health care reforms have difficulty understanding that health care is just one of many ways that people have to spend money. Instead, they believe that they, or some set of experts, can precisely determine exactly what each person requires in order to maintain good health. They call this the required minimum benefits plan.

In reality, spending on health care is just one of many possible things that a person can buy. Deciding how much to buy requires a tradeoff with other goods. Some people get their teeth cleaned every four months because they hate flossing and brushing. Others floss and brush regularly, need cleaning only once a year, and skip the recommended every 6 month treatments. Some people are content to get their cancer care locally. Others want top flight care and pay more for treatment from internationally known specialists for the latest in treatment. Some people are content to have the attending physician in the emergency room stitch up the cut on their face. Others are willing to wait longer and pay more to have a plastic surgeon do it. Some people make do with glasses even though they have high incomes and could afford vision correction surgery. Other people on much lower incomes hate glasses and painstakingly save thousands of dollars to fund their vision correction surgery.

A good health care system recognizes that different people want different things. It does not prescribe the same kind of care for everyone in a given category. It does not push care on people who do not want it. It does make it clear that different modes of care require different resources by pricing them accordingly. If you want to see a dentist every 4 months because you don't want to floss, fine, but you will have to pay the cost of that by forgoing a few hundred dollars worth of spending on other things.

1.1. Pricing

Does the proposal further market pricing for medical services? Market pricing means getting out of the way. It is more a matter of not doing certain things than an activist formula requiring that certain rules be followed. Think dentists, think corrective vision surgery. Forget Medicare price controls.

Does the reform ensure that any physician or health provider, and any facility, is free to treat any patient in exchange for direct payment of a

mutually agreeable fee? This is an essential protection for people who might be trapped in government programs in which the government pays too little to attract competent providers. If people are allowed to negotiate their own fees they can at least buy care by adding their own money to government payments.

1.2. Outcomes—should be measured by people buying care, not isolated experts, politicians, bureaucrats, social workers, or special interest groups.

- 1.2.1. Does the proposal ensure that patients can determine the treatments they will receive, and physicians the treatments they will provide, subject to their own consciences?
- 1.2.2. Does the proposal include organizational provisions that ensure that firms, industries, professions, and subsidy recipients will not be able to use the reform plan to their financial advantage?
- 1.2.3. Do all outcome measures look at things from the individual's perspective?

1.3. Consumer protection—mainly provisions to ensure that people have a variety of ways to pay for their health care, that government is neutral with respect to any delivery and financing system that may evolve, that participation is voluntary, and that health insurance can be tailored to individual needs.

- 1.3.1. Does the proposal ensure that participation in government programs is voluntary?
- 1.3.2. Does the proposal encourage people to accumulate assets that may be used for future health care expenses in lieu of third party insurance?
- 1.3.3. Does the proposal allow people to modify the amount of financial risk they are willing to bear by choosing among different third party insurance policies as their circumstances change?
- 1.3.4. Does the proposal remain neutral with respect to the form that third party insurance should take as long as insurers can meet their contractual obligations?
- 1.3.5. Does the proposal remain neutral with respect to paying for health care with cash or with third party insurance?
- 1.3.6. Does the proposal subject businesses operating in health care to the same rules as businesses operating in other sectors of the economy with respect to anti-trust, ownership, pricing, contracting, and reporting requirements?
- 1.3.7. Does the proposal protect people from involuntary participation in any non-governmental insurance program?
- 1.3.8. Does the proposal allow the purchase of health insurance that is not associated with an employer?
- 1.3.9. Does the proposal ensure that people can buy health insurance from any insurance company approved by a state government?
- 1.3.10. Does the proposal allow for the fact that people purchase health care from a variety of sources, some of which are both outside of Colorado and outside of the United States?

1.3.11. Does the proposal protect consumers from arbitrary restrictions on their ability to access medical therapies?

1.4. Government obligations—primarily to remain neutral, reduce regulatory burden, be a good steward of tax dollars used to provide subsidized care, and treat everyone equally.

1.4.1. Does the proposal include mechanisms to ensure that government programs do not use government power to compel unpaid services from providers?

1.4.2. Does the proposal have mechanisms to ensure that government treats all providers fairly and does not discriminate between providers via different payments for the same service or regulatory structures that favor some providers over others?

2. Does the proposal contain adequate structures for reducing costs?—primarily by ensuring that health care is provided in a contestable market and that the freedom to contract and set prices is free from government compulsion.

2.1. Does the proposal ensure that all providers and third party payers in the health care systems are subject to credible competitive threats?

2.2. Does the proposal expose existing providers, including government and quasi-government entities, to competitive pressures?

2.3. Does the proposal ensure that all entities using or providing health care are free to contract with others as they see fit?

2.4. Does the proposal ensure that participation in any health care program under the control of Colorado state government, or any entity created by statute, is voluntary?

2.5. Does the proposal ensure that any physician or health provider, and any facility, is free to treat any patient in exchange for direct payment of a mutually agreeable fee?

2.6. Does the proposal ensure that for profit and non-profit providers are treated equally?

3. Regulatory reform

3.1. How does the proposal plan to determine which health care regulations produce a net benefit and which produce a net cost?

3.2. Does the proposal embrace legal reforms that protect participants in the Colorado health care system from unreasonable torts and contradictory regulations?

3.3. Does the proposal require that businesses operating in health care are subject to the same rules as businesses operating in other sectors of the economy with respect to things like anti-trust, ownership structure, pricing, contracting, payment, purchasing, taxation, and reporting requirements?

3.4. Does the proposal protect consumers from unreasonable charges?

- 3.5. Does the proposal contemplate legal reforms that would encourage all participants to exercise good judgment?
- 3.6. How does the proposal plan to determine whether current licensing, inspection, and reporting requirements produce net benefits?
- 3.7. Does the proposal contemplate legal structures that will protect providers from arbitrary and capricious peer reviews?
- 3.8. Does the proposal reduce legal barriers to entry affecting hospitals, specialty hospitals, long-term care providers, in-store medical practices, insurers of all kinds, providers of professional services, drug and device manufacturers, and suppliers of drugs and medical equipment?
- 3.9. Does the proposal contemplate the legal reforms that would be necessary to encourage people who wish to create charity care clinics can do so without risking their personal assets?

4. Does the proposal promote the use of economically efficient subsidies designed to maximize the general welfare?

- 4.1. Does the proposal reform Medicaid?
 - 4.1.1. Do Medicaid subsidies accrue to individual patients rather than to providers?
 - 4.1.2. Can individual Medicaid patients spend the money that they receive at the provider of their choice? Can they purchase necessary supplies and services from the supplier of their choice?
 - 4.1.3. Does the proposal contemplate regulatory reform that allows the program to develop regulations and programs that treat different Medicaid populations according to their needs?
 - 4.1.4. Does the proposal contemplate Medicaid reforms that encourage Medicaid clients to use their Medicaid benefits wisely?
 - 4.1.5. Does the proposal include public access to Medicaid financial data so that amounts paid to providers, vendors, consultants, administrators, contractors, overseers, investigators, tax collectors, auditors and so on, as well as the purpose of the expenditures, can be clearly discerned?
 - 4.1.6. Does the proposal provide ways to discriminate between—and effectively manage—financial arrangements for people in legitimate need and those who take unfair advantage of subsidized and safety net programs?
 - 4.1.7. Does the proposal ensure that taxpayer-funded services will be provided only to eligible persons for eligible services?
 - 4.1.7.1. How will the proposal ensure that taxpayer-funded services are not provided to deceased persons, persons with fraudulent identification, nonresidents, persons not meeting financial requirements, illegal aliens, and so on?
 - 4.1.7.2. What penalties will be assessed for those who try to defraud the system by faking evidence of eligibility?
 - 4.1.7.3. What mechanisms in the proposal are designed to ensure that payment for taxpayer-funded services is actually rendered?

- 4.2. How does the proposal contemplate providing medical care for people who, by reason of incapacity or simple cussedness, do not comply with administrative requirements?
- 4.3. Will the subsidies contemplated by the proposal encourage or crowd-out private mechanisms for financing medical services?
- 4.4. Does the way subsidies are distributed in the proposal deepen Colorado's "low-wage trap" by imposing effective marginal tax rates on low-income people trying to work their way out of dependency?
- 4.5. How does the proposal plan to distinguish between essential and non-essential health care services?
- 4.6. How does the proposal contemplate ensuring that taxpayer-funded programs provide good value for the money spent?
- 4.7. Given that funds for taxpayer-funded programs are limited, how will the proposal manage the tradeoffs that are necessary in a resource constrained subsidy program?
- 4.8. How does the proposal propose to measure the effectiveness of taxpayer-funded subsidy programs?
- 4.9. How does the proposal plan to determine the type and level of subsidies?

5. Programmatic considerations

- 5.1. Does the proposal have a sunset provision?
- 5.2. How does the proposal plan to measure whether it is a success?
- 5.3. What trigger mechanisms automatically sunset the proposal in the event of budget excesses or poor performance?