

Washington State's Health Reform Proposals: A Human Rights Assessment

NoHLA Northwest Health Law Advocates, January 2009

EXECUTIVE SUMMARY

INTRODUCTION

A broad array of businesses, providers, labor unions, consumers, government leaders and health insurers in the United States agree that our health system needs to change to address serious problems with access to care, quality of care, and costs. National and state efforts to address the problem are underway. In Washington State, thousands of people are engaging in a dialogue about how to achieve reform. The state legislature has identified five proposals for reform.



This report offers an assessment of the five health reform proposals under consideration in Washington, based on the premise that every human being has the right to health, which includes the right to receive appropriate health care.¹

The human right to health is an indispensable component of the right to life, liberty and the pursuit of happiness. Health is fundamental to the welfare of human beings and to our pursuit of fulfilling lives. In a human right to health framework, society has a collective responsibility to protect each person's health. Countries around the world have long recognized this responsibility by ensuring universal access to health care for their people. The United States is one of very few industrialized countries that fail to ensure that all of their people have access to care.

WHY USE A HUMAN RIGHTS FRAMEWORK TO ASSESS HEALTH REFORM PROPOSALS?

While many doctors, clinics and hospitals are concerned with preserving and protecting their patients' health, a significant segment of the health care industry is focused on maximizing profit through the provision of health services. Indeed, for-profit private insurers and providers have a legal obligation to their shareholders and investors to make a profit. In this system, health care is a commodity and insurers operate under incentives to reduce care in order to make money.

In a health care system based on human rights, the financing and delivery of care prioritizes the protection of health over other factors. Health care is recognized as a public good, not just another consumer product we can choose to buy or forgo. A human rights approach requires that the development or reform of a health care system must focus on the most vulnerable people while aiming to address the needs of all. Reform can be incremental, progressing toward universal availability and access to care, but must not regress and endanger existing access to services.

¹ Similar analyses of state and national-level plans have also been developed by Anja Rudiger at National Economic and Social Rights Initiative/National Health Law Program. See http://www.nesri.org/economic_social_rights/right_health.html.

The human rights framework for health care is based on principles that assure health care services are accessible, available, acceptable, and of good quality for everyone, delivered on an equitable basis where and when needed. They also assure that health care is financed and delivered in a non-discriminatory way that enables the participation of individuals and communities, provides access to information, ensures transparency of institutions and processes, and has effective mechanisms to hold both private sector and government agencies accountable. The goal is a health care system that enables every person to get the care they need. The key principles are listed below.

KEY PRINCIPLES IN RECOGNIZING THE RIGHT TO HEALTH CARE

RECOGNITION OF RIGHT TO HEALTH CARE

Health care is a right for all individuals and not a privilege or a market commodity.

ACCESS

Health care services (e.g. primary care, mental health), goods (e.g. drugs, equipment) and facilities (e.g. hospitals, community health clinics) are accessible to everyone.

AFFORDABILITY

Health care is always affordable for everyone, with charges based on the ability to pay, regardless of how health care delivery is financed.

EQUITY & NON-DISCRIMINATION

Health care facilities, goods and services are distributed equitably, with resources allocated and accessed according to needs and health risks. Health care is provided and accessible without discrimination (in intent or effect) based on health status, race, ethnicity, age, gender, marital status, sexual orientation, gender identity or expression, disability, language, religion, national origin, income, or social status.

COMPREHENSIVENESS

Health care includes all screening, treatments, therapies, drugs, equipment and supplies needed to protect and restore health.

AVAILABILITY

Adequate health care infrastructure (e.g. hospitals, community health facilities, trained health care professionals), goods (e.g. drugs, equipment) and services (e.g. primary care, mental health) are available in all geographical areas and to all communities.

QUALITY

All health care is medically appropriate, of good quality and provided in a timely, safe, and patient-centered manner.

INFORMATION & TRANSPARENCY

Health information is easily accessible for everyone, enabling people to protect their health and claim quality health services. Institutions that organize, finance, or deliver health care operate in a transparent way.

ACCOUNTABILITY

Private companies, public agencies and providers are accountable directly to patients for meeting human rights principles through enforceable standards, regulations, and independent compliance monitoring.

PARTICIPATION

Individuals and communities can take an active role in decisions that affect their health, including in the organization and implementation of health care services.

PUBLIC HEALTH

Public health systems are maintained and improved to protect and promote optimal population health.

PUBLIC PROGRAMS - PROTECTING LOW-INCOME PEOPLE

Principles key to protecting low-income people are:

- Do not cut existing public programs. Maintain and expand them to address unmet needs.
- Eliminate barriers that keep eligible person from qualifying for and maintaining coverage through public programs.
- Ensure that beneficiaries of public programs receive the language access and transportation services they need to obtain quality health care.
- Guarantee the beneficiaries of public program have appropriate and accessible health care providers

APPLYING THE PRINCIPLES TO WASHINGTON'S HEALTH REFORM PROPOSALS

Using the above framework, we offer an analysis of the five proposals described in Senate Bill 6333, which passed in the 2008 legislative session. The legislation established a citizens' work group on health reform to assess these approaches to health reform.²

The five proposals are:

- Connector Plan, modeled on the current Massachusetts reform plan
- Standardized Universal Plan, named "Washington Health Partnership"³
- Universal Single Payer Plan
- Small Employer and Young Adults Proposals
- "Guaranteed Health Benefit" plan, prepared by the Office of the Insurance Commissioner.

The accompanying scorecard measures how well each of the proposals meets the human rights principles describe above. For each proposal, a more detailed analysis is also available.

² The bill provides brief descriptions of each of the five proposals, and can be found at <http://apps.leg.wa.gov/documents/billdocs/2007-08/Pdf/Bills/Session%20Law%202008/6333-S.SL.pdf>. Many of the proposals referenced in the legislation were skeletal and lacking in detail, so Mathematica Policy Research, Inc., has worked with legislative staff to develop more detailed descriptions of each proposal. NoHLA's analysis is based on the descriptions in legislation, as well as tables prepared by Mathematica, provided to us in August 2008.

CONCLUSION

The human rights framework is a powerful tool for assessing health reform proposals. It assures that health care services are accessible, available, acceptable, of good quality and delivered to everyone on an equitable basis, where and when needed.

There are four plans for which there is sufficient information to rate all of the human rights principles. Of these, the Washington Health Partnership comes closest to meeting the principles. The Massachusetts Model and the OIC's Guaranteed Health Benefit Plan do not meet many of the principles, and the Small Employer and Young Adult proposals do not meet any of them. Significantly, none of the plans comes close to meeting the low-income principles. There are few assurances that low-income people will benefit from these proposals in their current forms, and some may be disadvantaged.

We did not have enough information to fully rate the Single Payer Plan. Based on its consistency with the human rights principles we were able to rate, we expect that as further details emerge it will also meet or approach the remaining principles.

We call on policy makers, advocates and all Washingtonians to adopt human rights principles as the basis for making decisions regarding health care reform in Washington. The five reform proposals under review must be refined and improved to meet these principles. Only by doing so can we address the underlying problems of the health system and assure that people will get the care they need.

About Northwest Health Law Advocates

Northwest Health Law Advocates (NoHLA) is a nonprofit organization that works to improve access to health care for all Washington residents, in particular those who have limited resources and depend on public health insurance programs. We work on behalf of health care consumers in administrative, legislative and legal forums, and provide consultation and training to community advocates.

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