

# Human Rights Principles for Financing Health Care

## Ten Health Care Financing Principles to Ensure Universality, Equity, and Accountability

The goal of a healthy society is at the core of human rights principles, which place a duty on government to protect everyone's health. In the United States, this requires urgent health care reform to end the needless loss of life, health, and well-being of millions of people. Although current reform plans are primarily driven by a sense of economic necessity, based on cost concerns, they do implicitly share a common understanding of health as a social goal. Where those proposals fall short is in assuming that these shared social and financial goals can be realized as by-products of fragmented, market-based services.

Whether it is the systematic denial of coverage and care in the private insurance system, the price-inflated private Medicare plans, the poor results of privatized Medicaid administration, or the costly Massachusetts health reform, in no instance has the market succeeded in providing equitable access to quality care at a cost affordable to individuals and society as a whole. Indeed, as a market good, health care is by definition exclusionary, sold only to those who can pay, and readily exhaustible, depleted by private interests that literally "take their cut" from available resources through profit, leaving less for the public at large.

A society disposed to protect both bodily and financial health requires the collective provision of health care on a guaranteed and sustainable basis. In such a society, health care is treated as a public good, rather than as a commodity sold in a marketplace dominated by private interests. The following ten principles for financing health care emerge from human rights standards recognized in the United States and around the world. They are intended to guide the design of a sustainable, cost-effective system that secures comprehensive health care for all.

### The 10 Principles

*Health care financing must create a system that is:*

1. Focused on health
2. Universal and unified
3. Publicly administered
4. Free at the point of access
5. Equitable
6. Centered on care
7. Responsive to needs
8. Rewarding quality
9. Cost-effective
10. Accountable

# 1

<b>Focused on health</b>	<b>Health care financing must be completely aligned with the central purpose of a health system: protecting people's health.</b>
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The goal of a healthy society must take precedence over factors such as market imperatives, profit motives, and the vagaries of policy and budget cycles. A health care system should be financed in a way that guarantees and secures comprehensive health care for everyone, consisting of all preventive care, screening, information, treatments, therapies, and drugs needed to protect people's health, including mental health, dental and vision care, and reproductive services.<sup>1</sup>

# 2

<b>Universal and unified</b>	<b>Health care financing must secure automatic access to care for everyone and avoid separating people into different tiers.</b>
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How health care is financed must not lead to differences in how people receive health care, either with regard to access, quality, or outcomes. Everyone must be included and get automatic access to equal high quality health care, guaranteed throughout their lives and appropriate to their needs. Financing mechanisms should produce a unified health care system and not give rise to different tiers of access or coverage. When everyone is part of the same system, and can access and use it in the same way, the system itself is stronger and more sustainable since everyone benefits from supporting it.<sup>2</sup>

# 3

<b>Public</b>	<b>Health care is a public good that should be publicly financed and administered.</b>
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Health care is a public good that belongs to all of us, and burdens and benefits must be shared equitably by all. The government has a duty to guarantee everyone equal and easy access to public goods. It can best meet this obligation through public financing and administration of health care, as this minimizes the disincentives to providing care that characterize the business model of private insurers. Steps toward a public system may include expanding public programs such as Medicaid and Medicare, establishing a strong public insurance plan option, and effectively regulating the private insurance sector.<sup>3</sup>

# 4

<b>Free</b>	<b>At the point of access, health care services must be provided without any charges or fees.</b>
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When visiting a doctor, clinic or hospital, patients should not have to pay. Health care funds should be collected independent of the actual use of care, to avoid creating a barrier to care. Services must be provided based on clinical need, not payment, regardless of the financing mechanism used.<sup>4</sup>

# 5

<b>Equitable</b>	<b>Health care financing must be equitable and non-discriminatory.</b>
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Finances for health care provision must be raised and spent in an equitable way. General progressive taxation constitutes the most equitable mechanism, followed by sliding scale social insurance contributions. Whichever model the government adopts, financial contributions from individuals must be according to ability to pay, in order to be affordable for all (e.g. on a sliding scale starting at zero). They must be assessed in a non-discriminatory way, i.e. they cannot differ on grounds of health status, gender, age, employment or any other status except income. In a similar fashion, corporations should be required to contribute to the costs of the health care system.<sup>5</sup>

## 6

<b>Centered on care</b>	<b>Care should be financed as directly as possible, without intermediaries. Insurance coverage, if used as a vehicle for financing care, works only if based on the principle of risk and income solidarity.</b>
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The key function of a health care system is to provide care, not coverage. If insurance coverage is used as a vehicle for financing care, this can only benefit all if those who happen to enjoy better health or higher incomes contribute at a level that helps support the whole system, including those in poorer health or with low incomes. This grounds the system in the principles of risk and income solidarity and means that insurance must include everyone (guaranteed issue), spread costs and risk across society as a whole (community ratings, large pool), guarantee comprehensive benefits to all, and collect contributions based on ability to pay.<sup>6</sup>

## 7

<b>Responsive to needs</b>	<b>Resources must be allocated equitably, guided by health needs.</b>
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Health care spending must be guided by health needs and rectify existing disparities in resource allocation and infrastructure development. Resources must be used equitably for the benefit of all, while recognizing that some communities and individuals may need more care or different services than others. Communities should be involved in determining how their needs are met, and their participation should be fully funded.<sup>7</sup>

## 8

<b>Rewarding quality</b>	<b>Financing mechanisms must reward the provision of quality, appropriate care and the improvement of health outcomes.</b>
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Health care spending must reward quality, appropriate care, and improved health outcomes, rather than profit-seeking, marketing, unnecessary medical procedures, poor coordination, or other interests or effects not linked to protecting health. If care is financed through private insurance, regulation must ensure (through measures such as medical loss ratios) that resources are not diverted away from quality care. On the provider side, we should reward doctors, clinics, and hospitals who focus on quality and outcomes rather than volume, deliver primary care, provide medical homes, and serve communities and areas in need.<sup>8</sup>

## 9

<b>Cost-effective</b>	<b>Resources must be used effectively and sustainably to protect the health of all.</b>
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Financial resources in the health care system must be used for the benefit of the whole society, leaving no one behind and investing in communities whose health has not kept up with that of the rest of the population. Wasteful or uncontrolled spending in some areas restricts opportunities for protecting health in others, so the cost-effectiveness of interventions should be taken into account (e.g. through needs assessments, global budgets for hospitals, control of capital expansion and technology projects, etc.).<sup>9</sup>

## 10

<b>Accountable</b>	<b>Financing mechanisms and procedures must be accountable to the people.</b>
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Whether public or private, all financing mechanisms and procedures must be transparent and accountable to the people for whose benefit they exist. The people have a right to participate in the oversight of financing structures, and the government has a duty to ensure that financing decisions are based on the human rights principle of universal, equitable health protection. To ensure that this is the case, monitoring and evaluation systems, as well as appropriate public and private remedies, must be put in place to enable the public to measure and oversee progress toward meeting human rights standards.<sup>10</sup>

## How Reform Can Realize Our Human Right to Health Care

Human rights principles illuminate the social, economic, and moral aspects of our health care crisis and offer guidance for developing a holistic solution.

If we agree on the common goal of a healthy society, we need to create a robust and sustainable system of collective health care provision that guarantees that everyone can get the health care they need, regardless of their ability to pay.

If we agree on the need to contain the health care costs faced by families, businesses, and government, we need to use our limited resources as effectively as possible, accountable to all of us. We cannot afford to waste them on insurance middlemen and other corporate interests that inflate prices and deplete resources through bureaucracy, marketing, and profit-making.

If we agree on the moral obligation conferred by human rights, which entails treating every person as our equal, endowed with dignity and an equal opportunity to pursue a healthy life, then we cannot exclude anyone from health care, or give them inferior care, or force them to pay private gatekeepers to access care.

Our social goal of universal health protection requires that we pursue cost containment by turning a volatile market good into a sustainable public good. And only a public good can be distributed equitably and thereby help us meet our moral obligation for equal treatment.

Health care reformers who take into account these basic principles will be able to develop a sustainable system that is universal, equitable, and accountable to the people.

### References

- 1 International Covenant on Economic, Social and Cultural Rights, entered into force in 1976 (hereinafter ICESCR), Art. 12; The Committee on Economic, Social and Cultural Rights, *The Right to the Highest Attainable Standard of Health: 11/08/200 E/C.12/2000/4 (General Comment 14)* (hereinafter GC 14) at pars. 8, 9, 17, 34, 51 & 53.
- 2 ICESCR, Art. 12; GC 14 at pars. 12 (b) & 34. States must afford “equal access” to care for all persons (GC 14, pars. 34 & 35), which is threatened in a system with different access tiers — where, for example, poorer patients, in part due to different insurance options, see different doctors than wealthier patients — but strengthened significantly in a unified system that affords the same access route to all.
- 3 The international framework allows a public, private or mixed system (GC 14 at par. 36), provided that governments fulfill their obligation to protect against private actors, such as insurers, undermining the right to health care (GC 14 at par. 33). Given the breadth of evidence that private or privately administered financing has led to inequities and disincentives to providing appropriate coverage and care, a mixed system seems more suited to reaching human rights goals in the United States, with full and equal access to private doctors and hospitals that are publicly administered and financed. See *generally* GC 14 at pars. 33, 35, 36, 50 & 51.
- 4 The right to health requires the removal of all barriers interfering with access to health services (GC 14 at par. 21), and payment at the point of access, however small, has been proven to deter the uptake of health care especially by poor people (see RAND Corporation, “The Health Insurance Experiment,” RAND Research Highlights 2006 ). See *generally* GC 14 at pars. 21 & 50.
- 5 See GC 14 at pars. at 12, 18, 19, 21, 30, 34, 43(a), 43(e) & 51; International Convention on the Elimination of All Forms of Racial Discrimination, ratified by the United States in 1994, Article 5 (e) (iv).
- 6 See GC 14 at pars. 12, 35 & 51.
- 7 See GC 14 at pars. 12, 17, 37 & 43.
- 8 See GC 14 at pars. 12, 35, 51 & 55.
- 9 See GC 14 at pars. 18, 19, 47 & 51.
- 10 See GC 14 at pars. 17, 54, 55, 56, 57, 58 & 59.

**The Human Right to Health Program**, run jointly by the National Economic and Social Rights Initiative (NESRI) and the National Health Law Program (NHeLP), develops human rights tools to support organizations and advocates in their efforts to advance the human right to health care in the United States. The program is carried out in collaboration with the FXB Center on Health and Human Rights at the Harvard School of Public Health, Ipas, the Opportunity Agenda, and the Human Rights Implementation Project. Special thanks to the U.S. Human Rights Fund, the Moriah Fund, and the Herb Block Foundation for their support.