

# 10 Principles for Replacing ObamaCare

*by*

Josh Withrow & Logan Albright



In June, the Supreme Court is set to rule on *King v. Burwell*, a case challenging the legality of IRS ObamaCare subsidies. ObamaCare as written denies subsidies to states that did not set up their own health insurance exchanges, but to disguise the cost of rising insurance premiums, the IRS has been granting those subsidies anyway.

When a ruling comes down, probably at the end of June, ObamaCare may be revealed to be completely broken, and Congress may feel pressure to act. How they act, however, means the difference between freedom and a permanent government takeover of health care.

Since the passage of ObamaCare in 2010, critics of the law have endured the criticism that we're all about opposition, without providing constructive alternatives for health care reform. The truth is closer to the polar opposite—if anything, we suffer from a surplus, rather than a deficit, of comprehensive plans to repeal and replace ObamaCare.

This seems like a rather good problem to have, given that our entire philosophy is based upon encouraging innovation and competition. But, having many different alternatives is only useful to the extent that they are moving towards a common set of principles. We can all agree to support “patient-centered care” (and that’s a good start), but what does that really mean?

To answer this question, FreedomWorks has released a set of ten principles of health care reform that we believe any ObamaCare replacement plan should follow.

## **Health care decisions should be made between patients and doctors—the government should never have a say.**

Nothing is more personal and particular to the individual than health. Every person is different, with different needs, different preferences, and different responses to treatment. Doctors are trained to take these individual differences into account, and many develop relations with their patients lasting years.

The Affordable Care Act was designed with the assumption that remote bureaucrats know better, that the government is a better arbiter of health care decisions than either patients or their doctors. We know that this is not the case.

First, ObamaCare tells you that you must have health insurance that pays for treatments you'll never need. Then its bureaucratic agencies (PCORI and IPAB) will "recommend" what treatments are most effective, which will overrule your doctors by determining what your insurance ought to pay for. The government doesn't understand the health care industry, and it should not be able to make these decisions for individuals.

That is why any efforts to reform the health care system must uphold the principle that patients and their doctors maintain control of their health care decisions. Anything less is not consistent with patient-centered care.

## **Increasing access to health care is about letting markets provide lower costs for higher quality of care—not just having an insurance policy.**

Having insurance is great, but only if it reduces the cost and increases quality of care. The Affordable Care Act's goal of universal coverage came at the expense of quality, choice, and affordability. All across the country, millions of people received cancellation letters for insurance policies they liked and could afford. Now, they are forced to buy more expensive plans, with high deductibles that in many cases restrict their choice of doctors, leaving patients with fewer options for high-quality care.

Markets are always superior to top-down control, because only the price system allows businesses and consumers alike to adjust their behavior to changing conditions in real time. Companies have to respond to the demands of their customers, and customers dissatisfied with a company's practices can signal their displeasure by voting with their dollars, taking their business elsewhere in search of a better deal.

Just having an insurance policy is meaningless if you cannot afford the deductible, or if you cannot get in to see a doctor. Meaningful health care reform must focus on creating the right incentives for competition, innovation, and adaptability—all things that drive down the cost and increase the quality of care.

## **Tax policy should not favor individuals or companies with regard to purchasing health insurance.**

Current tax policy provides tax benefits for companies that spend money on health insurance plans for their employees. Individuals, however, do not share the same benefit.

The employer-based health insurance model is a relic of price controls from World War II, and has always been one of the main obstacles to reducing health care costs and increasing portability. Workers have less freedom to change jobs, for fear of losing their insurance. At the same time, because insurance is covered by a third party—the employer—workers have little incentive to shop for the best prices when consuming health care.

If individuals were granted the same tax treatment as corporations, it would be a step towards insurance plans that are customized for the individual rather than businesses. Equal tax treatment would also help shield workers when changing jobs. There's no reason why tax policy should favor one group over the other.

## **Regulation of private health insurance should be done by the states.**

The framers of the U.S. Constitution were clear about the importance of federalism in any system of government that seeks to avoid tyranny. The federal government has certain enumerated powers, and the rest are left to the states. This not only preserves the individual freedom of states and their citizens, but also encourages competition between them to find the most effective public policies. For this reason, the states have often been referred to as “laboratories of democracy.”

ObamaCare eliminates the ability of the states to compete on health care by imposing one-size-fits-all mandates on insurance companies across the country. The result of this has been dropped policies, increased costs, and reduced services.

Patient-centered health care reform must restore states’ abilities to control insurance regulations within their own borders, allowing states to adopt policies that work best for their citizens.

States can also play a role in improving the portability of health insurance plans, by developing reciprocity agreements to recognize plans purchased in other states.

**Medicare should allow all seniors a choice of plans in a competitive market and the option to opt out altogether if they choose.**

A person does not stop deserving health care options just because they get older. Currently, all seniors are forced onto the same government-run, single-payer health care program, Medicare, which crowds out private alternatives that could provide better care. Worse, Medicare penalizes seniors who want to opt out – effectively trapping most in the program.

Medicare pays doctors poorly, and strongly controls what treatments are available to patients—to the point that most seniors who can afford it purchase a Medicare supplement in order to get the actual care they need.

Seniors should be allowed to opt out of Medicare if they so choose, and the government should allow private companies to offer a wide variety of plans that will ensure that seniors can get better quality care at prices they can afford.

**Medicaid should move towards a state-controlled model—one in which states have flexibility to innovate and find ways to deliver better quality care with their Medicaid dollars.**

ObamaCare has only exacerbated the already major problems with Medicaid, the government health care program for low-income Americans. Medicaid is plagued by low quality care, inefficiency, and an increasing reluctance for doctors to accept it as a payment system.

ObamaCare makes a concerted effort to drive millions of Americans into Medicaid—some of whom were forced in after their private health insurance was canceled. But because Medicaid payments to doctors are so low, patients must often wait longer for appointments—if they find a doctor who will even take Medicaid at all.

In the few states that have been granted even limited ability to introduce patient-centered reforms to their Medicaid programs, the results have been promising. Giving Medicaid fully over to the states will lead to more responsible spending, tailored to the diverse needs of individual states, and will increase low-income patients' access to and quality of care. Since state legislatures are closer to the people they represent, they will always be better stewards of tax dollars than will the federal government.

## **Patients should be incentivized to save and spend their own money (tax free) on health care through health savings accounts.**

People are more responsible with their own money than with other peoples' money. The current health insurance model prevents patients from ever seeing the true cost of the medical services they consume. Someone else is paying the bills, so there's no incentive to shop around for the best price. The other side of this coin is that there's no reason for doctors to advertise their prices and compete with one another, since patients are more or less indifferent to the actual costs of care paid by insurance companies.

Health savings accounts offer a solution to this problem. By having a tax free account available for health care spending, patients will be sensitive to high prices and be incentivized to find the best deal for their money. This will also motivate health care providers to be more transparent in their pricing, and to compete with one another to provide the best care for the lowest cost.

## **The abuses of the medical malpractice system must be addressed by the states.**

Medicine is unique among the professions in that it deals directly with matters of life and death, sickness and health. Because of this, there is always a risk that patients will not improve, will get worse, or will die. While recognizing this fact, it is also important to protect patients against negligence and malpractice on the part of physicians through the legal system.

Most people now recognize that the medical malpractice system is broken. Doctors are forced to pay astronomical premiums for malpractice insurance, and are incentivized to order unnecessary tests and drugs out of fear of being sued for negligence. The inherent risk of the field has been taken by too many courts as a consequence of bad doctors, when in most instances this is simply not the case. The result is high prices and a misallocation of medical resources resulting from “defensive medicine.”

The medical malpractice system must be reformed, but reforms need to be implemented at the state level. A blanket policy from the federal government would violate the right of states to regulate their own tort law.

## **Individuals with pre-existing conditions should be accommodated at the state level.**

The main population that ObamaCare was supposed to take care of, those most in need of assistance, are individuals with chronic health conditions that require constant (and expensive) maintenance care. These individuals make up only a small fraction of our population, but were used to justify a wholesale change in every single patient's insurance.

Following all of the other principles listed previously would greatly help, by reducing the overall cost of care and coverage, and increasing individual ownership and portability of insurance plans. Ultimately, however, the highest-cost patients may still need further assistance, but once again a federal solution would interfere with the states' ability to manage their own insurance markets.

States can set up systems as they see fit—whether through high-risk or risk-transfer pools, or other policy means, to ensure that patients with pre-existing conditions have access to health insurance.

## ObamaCare must be dismantled entirely.

The Affordable Care Act is a federal takeover of the health care sector. It was rammed through Congress by one party, and sold to the American people with false promises of lowering health care costs and increasing access to care. Even the congressmen and senators who voted for the law admitted that they had not read it, with then-Speaker Nancy Pelosi famously saying that we had to pass the bill to find out what was in it.

Bad policy usually follows bad process, and in the case of ObamaCare, the results have been predictable. Millions of people lost the health insurance they were told they could keep; doctors are resigning and medical school enrollments are down; and insurance premiums are rising, with deductibles becoming so high that even many who have received insurance plans cannot afford to use them.

Opinion polls show that the law has consistently been unpopular with the American people. Nonetheless, many—even on the right—argue that the Affordable Care Act can be salvaged, fixed. This is in error. There is nothing about ObamaCare that increases choice, fosters competition, lowers prices, or improves the quality of medical care. Additionally, it violates individual rights by compelling people to buy coverage they may not want.

Make no mistake: we need major health care reform. Merely returning to life before ObamaCare is not an option. But reform must move towards putting patients—not bureaucrats—in control of their health decisions. These principles should serve as the framework for any reform efforts going forward.