



STRATEGIES FOR SHAPING PUBLIC POLICY

A Guide
for Health Funders

JANUARY
2000

Foreword

Grantmakers In Health (GIH) has undertaken several activities in the past year to both support and stimulate foundation efforts to improve access to health care. That work highlights the important roles foundations can play in both strengthening community services and undertaking initiatives that inform policy change.

Many foundations have shied away from funding in public policy in part because of confusion over federal tax rules governing lobbying for nonprofit organizations. As a guide to foundations on funding in health policy, this publication is intended to clear up some of the misconceptions held by foundations about this type of funding and show the many options that are possible. It also presents examples of the broad range of public policy activities now being undertaken by health foundations. This guide should not, however, be used as a substitute for sound legal advice. Foundations seeking to become more active in public policy should seek professional counsel as they design their programs.

Support from The Access Project has enabled GIH to pursue its priorities in both access and public policy. This monograph is part of that effort. The Access Project is a national initiative of The Robert Wood Johnson Foundation that is assisting communities to develop and sustain responses to health access problems.

The primary GIH staff person responsible for preparing this monograph is Malcolm V. Williams. Editorial assistance was provided by Anne Schwartz and Lauren LeRoy of GIH, Catherine M. Dunham and Gwen Pritchard of The Access Project, and Janne Gallagher and John Edie of the Council of Foundations.

About GIH

Grantmakers In Health's mission is to help foundations and corporate giving programs improve the nation's health. It works to build knowledge, skills, and effectiveness of individual grantmakers and the field of health philanthropy. It also seeks to foster communication and collaboration among grantmakers and to provide links with experts who can help grantmakers shape their programs.

GIH structures its programs to anticipate changes in the nation's health and health policy and help grantmakers respond to those changes. Its Resource Center on Health Philanthropy monitors the activities of health grantmakers and synthesizes lessons learned from their work. GIH's Resource Center includes a searchable database on the priorities, grants, and initiatives of foundations and corporate giving programs working in the health field.

In addition to its Resource Center, GIH has several special initiatives including its:

Support Center for Health Foundations — Helping health foundations develop effective programs, organizational structures, and operational styles.

Policy Programs — Building bridges between grantmakers and policymakers.

Partnerships for Maternal, Child and Adolescent Health — Working to foster collaborative efforts between grantmakers and the public sector to improve the health status and well-being of mothers, children, adolescents, and families.

GIH's services are designed for executives, staff, and trustees of foundations and corporate giving programs working in the health field. The organization serves the general health grantmaking community, develops targeted programs and activities for segments of this community, and provides customized services for individual funders. Specific activities include holding meetings (issue-focused forums, workshops, and large annual gatherings of grantmakers), providing education and training, tracking the field and conducting studies of health philanthropy, making referrals to expert consultants, and brokering professional relationships.

Grantmakers In Health does not give grants or provide assistance in finding grants.

Strategies for Shaping Public Policy

Historically, foundation funding in health has focused primarily on improving the health of populations, especially vulnerable groups. This commitment to population health needs has placed foundations in the position of both leading the policy agenda and responding to policy change.

Health foundations are increasingly becoming involved in the public policy process. Funding public policy makes sense because it can:

- be used to leverage limited resources;
- provide a means to influence policies and programs that reach a larger population than can be served directly by foundation programs;
- bring innovative approaches tested in foundation-funded demonstration projects to scale;
- provide resources to sustain programs beyond a two- or three-year grant cycle; and
- help to assure that government programming is effective (Beatrice and Carr 1996).

Any foundation, regardless of size, can fund in the public policy arena. With more and more policy decisions being made at the state and local level, smaller and locally-based foundations can have an impact on policies developed in their own backyards. The activities they are undertaking range from influencing the policy debate to assisting in the implementation of public policy.

Foundation funding in public policy, while considerable, cannot compare with government resources. It can only complement them (LeRoy and Schwartz 1998). The 1999 projection for spending in health care is \$1.2 trillion (Smith et al. 1999). Government spending will comprise about half of that figure. By contrast, in 1995, foundations spent an estimated \$1.9 billion on health activities and programs (Renz and Lawrence 1998).

Many foundations still hesitate when it comes to funding in health policy. These foundations may be fearful that policy work will jeopardize their tax status. Or they may not see a role for foundations in health policy. In either case, these foundations may be shying away from important policy-related activities that can help to further their missions.

This publication is designed to help health funders better understand their role in funding public policy activities. It is intended to:

- clear up misconceptions about the rules governing lobbying by nonprofit organizations;
- describe the types of policy-related activities that are permissible; and
- provide concrete examples of foundation-funded public policy activities.

IRS Rules on Non-Profits and Lobbying

Nonprofit organizations need to understand the rules governing lobbying for two reasons. First, there is a great deal more leeway for foundations to engage in policy-related activities than many may realize (Beatrice and Carr 1996). Second, breaking the rules, even inadvertently, can lead to penalties including expensive fines or loss of nonprofit status.

The Internal Revenue Service (IRS) defines which activities are legal for foundations to engage in by describing what is not legal. Most foundations (with a few exceptions detailed below) may not lobby. This includes both direct lobbying — any communication with legislators that attempts to influence legislation, where specific legislation is referred to, and a view on the legislation is given — and grassroots lobbying — communications that refer to specific legislation, reflect a view on the legislation, and include a call to action which is defined as a statement directing the reader to contact their legislator.¹

Foundations can, however, give grants to nonprofit organizations that do lobby, as long as certain conditions are met. First, grants of general operating support may not be earmarked for lobbying. Second, grants made to specific projects that have a lobbying component must be for an amount less than the budget for the lobbying activities. Foundations may lobby on their own behalf with regard to legislation that affects their powers, duties, tax-exempt status and the deductibility of contributions.

The law applies differently to public charities, such as most community foundations, and social welfare organizations. Public charities may engage in lobbying as long as it does not become a substantial part of their activities.² Social welfare organizations do not have a limit on the amount of lobbying in which they can engage.³

¹It is important to draw a distinction between either type of lobbying and electioneering, which is any involvement in support or opposition to a candidate for public office (as opposed to ballot initiatives). No nonprofit organization may engage in electioneering.

²Under section 501 (h) of the Internal Revenue Code, public charities can choose to register with the IRS as an electing public charity. As an electing public charity, the organization is given greater freedom to engage in lobbying activities. In some cases, electing public charities can make expenditures for lobbying of between 5 percent and 20 percent of their budgets.

³Social welfare organizations are defined simply as organizations that promote social welfare. These are generally advocacy groups such as the Common Cause or the American Association of Retired Persons. As foundations, social welfare organizations are fairly new to health philanthropy. The few that exist as grantmaking organizations were developed out of the conversion of nonprofit health care organizations.

Important Exceptions to the IRS Regulations

The IRS restrictions on lobbying by nonprofits affect only a small portion of the policy-related activities that foundations can undertake. There are several important exceptions to the law regarding lobbying that open up opportunities for foundations to fund in public policy. The following exceptions provide a framework for the activities that foundations can engage in either directly or indirectly by providing grants to other organizations.

Foundations can:

- *conduct examinations and discussions of broad social and economic problems*— even if these involve communicating with legislators or their staff. The key is not to discuss specific legislation or include communication that contains a call to action. For example, foundations may convene interested parties, including legislators, executive officials, and their staffs, around issues of concern as long as the discussions focus on topics other than the merits of specific legislation.
- *conduct and release nonpartisan analyses, studies, or research.* In communicating such research, the foundation or its grantee may even take a position on specific legislation as long as all of the facts related to the issue are presented fairly and it is possible for the reader to form an independent opinion or conclusion.
- *respond to written requests for technical advice or testify at legislative hearings.* When testifying before legislative bodies, unlike presenting nonpartisan analysis, foundation representatives are permitted to support or oppose specific legislation (Edie 1991).

Foundations may also engage in other policy-related activities that fall outside of the IRS definition of lobbying. For example:

- Most grassroots communications to the public about a general issue of concern are permitted as long as there is no reference to specific legislation, no position taken on the legislation, or no call to action and the communication does not take place within two weeks prior to a legislative vote. For example, conducting public education campaigns through radio or television advertisements, use of direct mail, and other forms of public communication about specific health policy issues are not considered lobbying when the objective is to educate the public rather than influence legislation and a legislative vote on the topic is not imminent.
- Actions designed to address the implementation of existing laws by administrative bodies are also permissible. These encompass activities that range from foundation-initiated projects to formal collaboration with government to achieve shared goals (Edie 1991).

What Foundations Have Done

Foundations play a vital role in policy projects. They can serve as a conveners, conduct policy analysis or data collection, educate policymakers, shape policy implementation, improve public understanding of health issues, provide a voice for vulnerable groups, collaborate directly with government agencies, and support direct services. The following section highlights specific examples of foundation activity in these areas. Many of these grants serve a single purpose and will fall under one category. Several, however, could be classified in a number of ways. These categories are merely illustrative of the various options for foundations.

Serve as a convener. One way that foundations influence the policy debate is by convening policymakers, experts, researchers, and others in an effort to frame policy issues within the appropriate context. The New York Community Trust, for example, supports the Task Force for Sensible Welfare Reform of the New School for Social Research. Working with representatives from government, nonprofits, and philanthropy, the Task Force shapes the implementation of welfare reform in New York by studying and assessing proposed changes in local and state policy. Past projects include examining the impact of welfare policy changes on family income and health, developing research proposals on the impact of issues related to child care needs, and analyzing the City's welfare to work program.

The Carnegie Corporation of New York has funded the Aspen Institute for a public policy project to promote the well-being of children. The Children's Policy Forum brings members of the U.S. Congress together with scholars and practitioners to examine the changing lives of children and to consider policy options to address problems children face. Seminars and annual retreats enable a core group of legislators to discuss selected issues with experts in the field.

The Jewish Healthcare Foundation provided a grant to the Council of Jewish Federations to develop the National Task Force on Long Term Care which will develop national and state long-term care policy solutions.

Policy analysis and data collection. Data and analysis can influence policy decisions regarding the financing of health care, delivery of health services, and access to care. For example, the California HealthCare Foundation has funded the Harvard School of Public Health to systematically assess the organization, management, and financial forces within group practices and independent physician groups in California and to examine the potential of those factors to influence physicians' practice behavior.

The Robert Wood Johnson Foundation (RWJF) has also funded a number of projects in this area including a state health policy information initiative to improve the capacity of state health statistics

systems to support health policymaking and program management. RWJF also sponsors the Changes in Health Care Financing and Organization (HCFO) initiative. Through a separate grant-making program, HCFO encourages the development of policy analysis, research, evaluation, and demonstration projects that provide policy leaders with timely information on health care policy and market developments. Many studies already funded under this initiative have informed discussions of a wide variety of public policy issues, for example, providing a better understanding of the factors influencing insurance purchasing decisions by public and private employers. HCFO distributes its findings through a newsletter, small conferences that highlight particular projects of interest, and periodic nontechnical reports. The initiative also supports a series of invitational conferences designed to bring together key public and private players involved in the policy process. RWJF has also sponsored the Medicaid Managed Care Program, a \$21 million national initiative intended to make managed care work for people covered by Medicaid, especially those with chronic health problems. The initiative sponsors demonstrations, feasibility studies, and analytical work, as well as providing technical assistance to state and local governments, health care organizations, consumers, and the policymaking community.

Several national foundations are supporting the Assessing the New Federalism project of the Urban Institute.⁴ This multi-year research project is analyzing the devolution of responsibility for social programs from the federal government to the states, focusing primarily on health care, income security, job training, and social services. Researchers monitor program changes and fiscal developments. In collaboration with Child Trends, Inc., the project is studying the well-being of children and families. Findings should assist state and local policy makers in designing new policies and programs by providing information about the effects of devolution on different institutions and populations.

The Kansas Health Foundation, in collaboration with the Kansas Department of Health and the Environment, sponsored the Kansas Integrated Public Health System (KIPHS), a major initiative to develop and install a comprehensive public health information system designed to enhance the quality, effectiveness, and efficiency of public health practice. This initiative began as a way to help county health departments collect accurate data about health issues in their communities. The system will eventually be connected to the surveillance system of the Centers for Disease Control and Prevention. Other steps for the project include providing an interface that allows schools to access students' immunization status, identifying additional data sources, and establishing a central data clearinghouse. The Foundation originally awarded \$1.8 million to this initiative to implement the

⁴Foundations supporting the Urban Institute's Assessing the New Federalism project include The Annie E. Casey Foundation, The Henry J. Kaiser Family Foundation, the W. K. Kellogg Foundation, The Robert Wood Johnson Foundation, the Ford Foundation, The John D. and Catherine T. MacArthur Foundation, the Charles Stewart Mott Foundation, The Commonwealth Fund, The Stuart Foundation, the Weingart Foundation, The McKnight Foundation, The Fund for New Jersey, The Rockefeller Foundation, The Joyce Foundation and the Lynde and Harry Bradley Foundation.

KIPHS software in the various communities. The Kansas Department of Health and the Environment provided free office space and \$120,000 in funding.

At the local level, the Phoenixville Community Health Foundation, a small foundation in Pennsylvania, provided a grant to the United Way of Chester County to conduct a transportation needs assessment in order to study the impact that access to transportation has on health care access for area residents.

Educating policymakers. The development of effective public policy hinges on well-informed policymakers who have access to information that is timely and accurate. The California HealthCare Foundation gave a grant to the National Health Policy Forum to support a three-day site visit to southern California by 25 federal legislative and executive health policy staff. The site visit was designed to inform these policymakers on managed-care issues. It included meetings with provider groups and managed-care organizations to explore industry trends and issues related to federally funded programs and system gaps.

The Henry J. Kaiser Family Foundation has helped to educate policy makers by creating the Kaiser Commission on Medicaid and the Uninsured. The Commission acts as a policy institute and forum for analyzing health care coverage and access for low-income populations and assessing options for reform. It conducts analysis, sponsors research, and produces publications on coverage, service delivery, and financing issues. The Commission has also implemented a comprehensive communications strategy to help policymakers take advantage of the new information.

The communications office of The Robert Wood Johnson Foundation has undertaken an initiative, Connect, to help Foundation grantees share their stories and projects with policymakers who have mutual interests and can benefit from their experience and expertise. It benefits grantees by helping them establish personal relationships with their policymakers.

Through the Violence Prevention Initiative (VPI), The California Wellness Foundation seeks to educate policymakers, opinion leaders, and community residents about policies and best practices to prevent youth violence, treating the problem as a public health issue.

The VPI, now in its second five-year phase, has four interactive grantmaking components: policy and public education, leadership and professional development, community action, and initiative support and capacity building. The policy and public education program focuses on three major activities:

- The Pacific Center for Violence Prevention produces policy education and training materials; administers one of the nation's largest injury and violence prevention libraries; manages

an electronic communications network for VPI grantees; and provides policy training, technical assistance, and education to VPI grantees, policymakers, opinion leaders, and community organizations across the state.

- Martin & Glantz produced two public education campaigns, *The Campaign To Prevent Handgun Violence Against Kids* and *Resources for Youth*, to inform the general public, opinion leaders, and policymakers. Strategies include: developing and maintaining a customized statewide opinion leader database; creating and distributing informational materials to opinion leaders through mail and electronic communications; using paid advertising and public relations; organizing a statewide videoconference; and developing and disseminating educational materials.
- The Supplemental Policy Program provides grants to organizations with specialized areas of expertise. Supplemental Policy grants go to groups across multiple disciplines with expertise that informs development of local and state youth violence prevention policies.

Shape policy implementation. One way foundations can shape the implementation of policy is by strengthening the capacity of state and local governments to address critical problems. The Commonwealth Fund, for example, is supporting the National Academy for State Health Policy to work with up to four states to design and develop initiatives to improve the health and development of low-income children through state Medicaid and children's health programs.

Foundations may also provide direct assistance in the implementation of policy. The Robert Wood Johnson Foundation has given a four-year grant to support the creation of the Center for Medicare Education, which serves as a resource for information intermediaries who help the elderly and their families to make choices among Medicare options and to navigate the health system. The Center will serve as a clearinghouse to identify and disseminate information on best practices in educational material development and capacity building. It will also provide training for information intermediaries and conduct targeted research on consumer education.

Improve public understanding of health issues. When consumers are educated about changes in public policy, implementation of the policy is likely to be more effective. The W.K. Kellogg Foundation provided a grant to Georgetown University to develop and implement a model to educate health care consumers and patient representatives about new national and state policies to increase access to health insurance.

The Jewish Healthcare Foundation took a different tack and provided a grant to a public television station, WQED of Pittsburgh, to institute in-depth state and local health policy coverage as part of its new nightly news magazine.

Provide a voice for vulnerable groups. The populations most affected by policy decisions in health often have the least impact on the policy debate. Providing a voice to vulnerable groups can help ensure that public policy is responsive to the needs of this population. The Consumer Health Foundation for example, provided a grant to the Families USA Foundation for a project aimed at increasing the capacity of low-income consumers to participate in health policy decision making. The Medicaid/Managed Care Community Assistance Outreach Project disseminates information on area Medicaid HMOs, works with community organizations to monitor the impact of Medicaid managed care on access and quality of care, informs public officials of adverse effects, and advocates for necessary policy changes.

The California Wellness Foundation awarded a grant to The Democracy Center to produce and disseminate a guide for health providers and other human service agencies on effective participation in policy and advocacy efforts on behalf of low-income clients. The Foundation also awarded a grant to the Latino Coalition for a Healthy California for core operating support of its activities to develop competencies in health policy analysis, Latino health data collection and research, community education, and provider training.

The Public Welfare Foundation is also active in this area. A number of recent grants have been made for organizing consumers around a universal health care agenda. The Vermont Public Interest Research and Education Fund received a grant from the foundation for efforts to spur debate on universally available, statewide health care coverage and other reforms to health care delivery and finance. Likewise, Community Catalyst received a grant to develop a consumer-led movement to advocate for more equitable health care.

Collaborate directly with government agencies. Several foundations have also found it useful to work in collaboration with government agencies. These public/private partnerships leverage the limited resources of the organizations involved to achieve shared goals. The Quantum Foundation and the Palm Beach County Health Care District together contributed \$750,000 to establish a school health information system. The information system will include both hardware and software that will help school nurses track student health records, evaluate the effectiveness of individual providers and the system as a whole, and bill for reimbursable services.

The Robert Wood Johnson Foundation established Making the Grade: State and Local Partnerships to Establish School-Based Health Centers, making available \$17.5 million to support state-community partnerships. In 1993, 12 states received planning grants; 9 subsequently received implementation grants to develop district-wide integrated systems of school health services that link health centers, school nursing, mental health and special education-related services in an effort to develop an effective service delivery system for children.

The David and Lucile Packard Foundation and the Agency for Health Care Policy and Research (now known as the Agency for Healthcare Research and Quality) are collaborating on a public-private plan to evaluate the state Children's Health Insurance Program (CHIP). Over three years, \$6 million will be granted to 5 to 8 organizations to look at the impact of insurance programs, public or private, that are designed specifically for low-income children. Grantees will also look at the broader impact on the whole community or market within which they are operating. The two organizations seek to leverage their limited resources, but also to show some real policy relevance to their work. The researchers receiving the grants must both show how their findings can be put to use and enter into partnerships with the end users.

Other foundations have worked in collaboration with government agencies to support the implementation of the Children's Health Insurance Program (CHIP). The Columbus Medical Association Foundation entered into a partnership with the Franklin County Department of Human Services to help inform local families of their children's eligibility in *Healthy Start Plus*, Ohio's CHIP program. The Foundation was the sole local provider for the county-based matching funds which were needed to draw down federal Medicaid funds. This initiative also included two grants to the Children's Defense Fund of Ohio to help identify and enroll newly eligible children and analyze termination rates for those currently enrolled in the program and the reasons for eligibility denials. Recently, the Columbus Medical Association Foundation committed additional funds to the Franklin County Department of Human Services to extend the outreach campaign for 18 months, and convened a coalition of local funders in an effort to expand community support of *Healthy Start Plus*.

Support direct services. Finally, foundations may support direct services. The policy impact of this is twofold. First, lessons from direct services grants may have the potential to inform public policy, even if this was not the original intention. Foundations can share those lessons so they come to the attention of the policy community. The impact of some policy changes may first be seen at the service level, especially for organizations serving the poor. These foundation-funded service programs can provide an early warning system for adverse repercussions of policy change. Second, foundation programs can fill critical gaps that have not been addressed by public policy. Many foundations provide ongoing support to organizations providing health care services. In addition, foundation funding of demonstrations and assessments of service models can help inform the development of public policy. Two examples are provided below:

Demonstrations. Blue Cross Blue Shield of Michigan Foundation funded the African American Health Initiative in 1998. The initiative is a \$150,000 effort to fund up to three grants to explore African American health issues. One grant will be awarded for community-

based demonstration and evaluation projects. These are projects in which academic institutions collaborate with nonprofit community organizations or health systems to evaluate programs aimed at prevention and/or treatment strategies. A second grant will be awarded for policy research, including the analysis of public, purchaser and health system policies on African American health. Finally, a third grant will be awarded for clinical research, including the assessment of the etiology, diagnosis, treatment and/or prevention of conditions that disproportionately affect African Americans.

Assessing models of service delivery. The California HealthCare Foundation provided a grant to the University of Southern California to evaluate the Riordan Commission on Healthy Kids: Program for Children's Health Insurance in Los Angeles. The evaluation will assess the effectiveness of program outreach and enrollment methods for immigrant children who are eligible. It will determine whether the program has affected utilization of care and has met children's needs from the perspective of their families.

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The following provide a more detailed discussion of the lobbying rules for private foundations, public charities, and social welfare organizations, and for other policy-related activities in which foundations may engage.

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Also see Independent Sector's Charity Lobbying in the Public Interest website, at www.independentsector.org/clpi/index.html. This website educates charities about the role lobbying can play in achieving their missions.