



Ballot Initiative for ColoradoCare – Amendment 69 September 2016

Amendment 69 would amend our state Constitution to:

- Collect a start-up tax of 0.9 percent of all payroll and non-payroll income. After the startup period, the tax would increase to 10 percent of all income.
- Establish ColoradoCare to finance health care services for all Colorado residents, to administer state and federal health care funds, and to institute fiscally sound payment policies that improve and maintain high standards for value, quality, and healthy outcomes for all beneficiaries.
- Beneficiaries would include all Colorado residents.
- Establish new health care coverage for people who are currently uninsured, those on Medicaid and CHP+ and many Coloradans who are currently privately insured. Coloradans who have Federal health coverage including Medicare and military coverage would maintain that coverage. Employers would have the option of maintaining their current health plans.

The new taxes would raise a projected \$25 billion annually, with federal and state funding pushing total annual revenues for ColoradoCare to an estimated \$38 billion.

Arguments in favor of ColoradoCare:

- **Universal coverage:** The division would finance health care services for all residents of Colorado, including those without proper documentation, providing access to health services and financial protection, to these families. It would also ensure that all pregnant women were eligible for prenatal care as early as possible in their pregnancies.
- **Comprehensive coverage:** ColoradoCare would provide coverage at least as comprehensive as that required under the Affordable Care Act. The coverage would not have any deductible, though copayments may be required for some non-preventive services.
- **Potential cost controls:** With a projected 4.4 million members, ColoradoCare would be the largest health care payer in the state so it could negotiate lower prices for hospital care than private insurers. However, at the national level, ColoradoCare would be a relatively small health insurer and therefore the Colorado Health Institute does not project any bulk purchasing savings for items such as prescription drugs and medical equipment such as wheelchairs.

Arguments against ColoradoCare

- **Board structure and elections:** Amendment 69 would grant broad powers to the board of ColoradoCare. Board members are not required to have any health system or health economics expertise and would be subject to the political whims of election cycles. The board would control a budget larger than the rest of the state government combined. An interim board of 15 members appointed by the governor and majority and minority leadership in the legislature would begin the work of setting up ColoradoCare. Once ColoradoCare was set up, a permanent board of 21 people would be elected from seven districts across the state, with each district getting three representatives. These elections appear to use different voting rules than current Colorado elections and would possibly require the establishment of a new and separate election process. Eligible voters would be the members of ColoradoCare who have lived in the state at least a year and are at least 18. They would not necessarily have to be citizens or registered voters in Colorado. Because ColoradoCare does not explicitly repeal U.S. citizenship as a voting requirement as required in the state constitution, it is possible that the election process would be vulnerable to a judicial challenge.

- **Interactions with Federal programs and laws:** The amendment insufficiently contemplates the required interaction with federal programs and laws. Colorado Medicaid currently operates under 12 active Medicaid waivers, each of which would need to be reconsidered. ColoradoCare is also silent on the issue of interaction with federal Employee Retirement Income Security Act of 1974 (ERISA). ERISA is a broad federal law limiting a state’s ability to regulate some group health plans, including those health plans held by a majority of employees with employer-sponsored health insurance in the state of Colorado. Amendment 69 permits an employer to continue offering existing health benefit plans to employees in addition to paying ColoradoCare taxes, but it seems unlikely that many ERISA employers will choose to incur both the payroll tax imposed by ColoradoCare and the additional expense of maintaining their existing ERISA plans, leading to a likely legal challenge. Exempting ERISA employers from the payroll tax would substantially decrease the amount of revenue raised by ColoradoCare.
- **Political stability:** Employers could remain reluctant to drop their employee plans in favor of ColoradoCare, which may improve the financial stability of the program, but significantly undermine political and public support as many Coloradans began paying an additional 10 percent tax without receiving any noticeable benefit. Further, potential legal battles around the voting of non-citizens and the rights of ERISA plans would also likely erode public support.
- **Financial stability:** CHI’s financial analysis concluded, “ColoradoCare would slide into ever-increasing deficits ... The revenues designated for ColoradoCare to pay for the new universal coverage wouldn’t be able to keep up with increasing health care costs, resulting in red ink each year of its first decade.” Much of this instability is due to the fact that health care costs increase faster than general measures of inflation. Compared to ColoradoCare’s own financial analysis, CHI estimated slightly less federal dollars received by the state, higher administrative costs to run ColoradoCare, fewer savings from reducing administrative costs and negotiating health care prices, and a larger increase in the use of health services. The use of health care services would increase not only by providing insurance to the uninsured, but because ColoradoCare will not have any deductibles and there is substantial evidence that when individuals switch from plans that have high deductibles to those without deductibles their use of health care services (both high-value services and low-value services) increases.

Timeline (assuming passage):

Election Day	November 8, 2016
Enabling Legislation Enacted	January-May 2017 (2017 legislative session)
Interim Board Appointed	March 2017
Start-Up Period (including federal waivers)	March 2017-January 2019
Transitional Tax Collection Begins	July 2017
Premium Tax Collection Begins	December 2018
Implementation or Shut Down	January 2019

Position: While providing a noble vision for Colorado’s health care system, ColoradoCare lacks the details necessary to provide a reasonable chance of success at improving health care for Colorado’s kids. The amendment insufficiently contemplates the details of the federal waiver process, does not address interaction with the most common type of employer-sponsored health coverage, and lacks financial and political stability. The Children’s Campaign opposes ColoradoCare.