The Finance and Public Administration Legislation Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

22 April 2013

Re: Health Insurance Amendment (Medicare Funding for certain types of Abortion)

Abstract.

1. Senator Madigan's proposed amendment relates to the *payability* of Medicare benefits, in the event of a gender-selection abortion occurring. The committee needs to decide whether it is right that government funds should be made available for this purpose.

2. This must be considered irrespective of other factors such as:
    a. whether any gender-selection abortions have already occurred in Australia;
    b. whether documented evidence of (a.) is available;
    c. whether Medicare funding has already been used for this purpose;
    d. whether documented evidence of (c) is available;
    e. the number of Medicare claims for gender-selection abortions likely to occur in the future;
    f. whether removing Medicare funding for gender-selection abortion will reduce the rate, likelihood or number of such abortions in future; and,
    g. whether there are more effective means to prevent such abortions; and
    h. whether the removal of Medicare funding is enforceable.

3. The Royal Australian and New Zealand College of Obstetricians and Gynaecologists (ANZCOG) and the National Association of Specialist Obstetricians and Gynaecologists (NASOG) indicate that as bodies of specialists, they are opposed to "social gender selection".

   Therefore, under the *Health Insurance Legislation* Act (1983) section 82, gender selection abortions carried out solely because of the gender of the foetus must be considered, to be an "inappropriate practice" in the context of Medicare.

4. There is increasing evidence that gender-selection abortions are increasing throughout much of the world. It is unlikely that every single person involved in this practice who immigrates to Australia gives up their culturally ingrained beliefs allowing this to happen. Therefore we should assume that cases of gender-selection abortion will happen in future history, and that a certain unknown proportion of these parents will apply for Medicare funding. We must act to ensure that any such happening, is not funded by taxpayers. Such funding would be to involve the government and the public in financially aiding an act which discriminates against females on basis of gender alone.

I write in regard to Senator John Madigan's Health Insurance Amendment bill (Medicare funding for certain types of abortion).

1. Introduction

Senator Madigan's proposed amendment relates to the payability of Medicare benefits, in the event of a gender-selection abortion occurring. The committee needs to decide whether it is right that our taxpayers' funds should be made available for this purpose.

2. Arguments which are not pertinent to the discussion.

The correct use of government funds must be considered irrespective of other occurrences such as:

a. whether any gender-selection abortions have already occurred in Australia;
b. whether documented evidence of (a.) is available;
c. whether Medicare funding has already been used for this purpose;
d. whether documented evidence of (c) is available;
e. the number of Medicare claims for gender-selection abortions likely to occur in the future;
f. whether removing Medicare funding for gender-selection abortion will reduce the rate, likelihood or number of such abortions in future;
g. whether there are more effective means to prevent such abortions; and
h. whether the removal of Medicare funding is enforceable.

It does not logically follow that proving or disproving any of the above occurrences means that gender-selection abortions should be funded by government funds.

With regard to whether documented evidence of this has been found, it is extremely unlikely such documentary evidence could ever be produced, for the simple reason that no such information is collected or published by Medicare or abortion providers. To quote Women's Health Victoria, "There is also no way of showing that Medicare is being used for this purpose."[i] What the elected parliament is entrusted to do is to decide whether it is right to use taxpayer funds for gender-selection abortions.

3. Further Incorrect Arguments

The Committee must note that what is in question is whether taxpayer funds should be used should a gender-selection abortion occur. Use of taxpayer funds for this purpose would involve not only the government, but also the Australian taxpayer in helping provide a gender-selection abortion of an unborn girl (or, less commonly, an unborn boy), should it occur. What is *not* relevant is whether removal of Medicare payability will reduce the rate, likelihood or number of any such abortions. Likewise, while it is commendable that some submissions have made suggestions on means to reduce the rate, likelihood or number of such abortions, the presence of other options to this end does not affect the discussion of taxpayer funding of these abortions.

A few submissions to the committee (02, 03, and 130) have rejected the amendment based on whether they believe the amendment will do this. This is not relevant. The point of the amendment is that taxpayer funding involves the public in providing for a discriminatory act which most Australians find totally unacceptable in this day and age.[ii]

3. Inappropriate Medicare Practices under the *Health Insurance Legislation* Act (1983)

The *Health Insurance Legislation* Act (1983) which introduced Medicare in 1983, clearly indicates in Section 82 paragraph 1 that,

(1) A practitioner engages in inappropriate practice if the

practitioner's conduct in connection with rendering or initiating

services is such that a Committee could reasonably conclude that:

....

(b) if the practitioner rendered or initiated the services as a

> specialist (other than a consultant physician) in a particular specialty-the conduct would be unacceptable to the general body of specialists in that specialty…[iii]

If it is the case that a committee could "reasonably conclude" that the practice of abortion, for no reason other than gender selection, were to be "unacceptable to the general body of specialists in that specialty" – that is, the general body of obstetricians and gynaecologists – it would follow that that such abortions are inappropriate for Medicare funding. Let us consider if this is actually the case.

The submission by the Royal Australian and New Zealand College of Obstetricians and Gynaecologists indicates that "the College does not support termination of pregnancy for the reason of 'family balancing' or 'gender preference'. Whilst it gives some rare occasions for when there are medical reasons for gender selection, the proposed amendment applies to when "the termination is carried out solely because of the gender of the foetus". Thus these occasions are beyond the scope of the proposed amendment.[iv]

The submission by the National Association of Specialist Obstetricians and Gynaecologists (NASOG) indicates *none* of its council members were in favour of "social gender selection".[v]

Additionally, indications of the attitude of the wider population is shown in a study, *Australian attitudes toward sex-selection technology*, (Kippen, Evans & Gray, 2011).[vi] The findings were that 80 percent of respondents disapproved of sex-selection abortions.[vii] A Galaxy Poll of 300 Tasmanians conducted on 8 and 9 February 2013 found that 92 percent of those surveyed disapproved of gender-selection abortion.[viii] One can reasonably surmise that with such a large percentage of the general population disapproving of gender-selection abortion, that a similar proportion of obstetricians and gynaecologists would share the same view that the practice is unacceptable.

Notwithstanding, based on the above statements by RANZCOG and NASOG alone, a committee could "reasonably conclude" that the practice of abortion, for no reason other than gender selection, would in fact be "unacceptable to the general body of specialists in that specialty."

Therefore, under the *Health Insurance Legislation* Act (1983) section 82, gender selection abortions carried out solely because of the gender of the foetus *must be considered, in the context of Medicare, to be an "inappropriate practice"*.

4. Evidence of Gender-Selection Abortions

Gender-selection abortion is prevalent in many parts of Asia. A certain proportion of these are for economic reasons, or reasons relating to Chinese families wanting to have a male child under China's one child policy. Persons migrating from these countries to Australia may decide not to abort unborn girls due to changed circumstances. I am from an Asian culture myself, and the fact remains that in most Asian cultures, male children are seen as more valuable than female children. Hence gender-selection abortion is commonly seen in these cultures, as evidenced by highly skewed sex ratio at birth (SRB) statistics. Such culturally entrenched attitudes *generally do not disappear* when people emigrate from their country to a western democracy. According to the UN Population Fund (UNFPA), the male:female SRB in Asian diasporas in Europe and North America was variously measured at between 107:100 and 110:100 in the years 2000–2009.[ix] Moreover, this trend it not restricted to Asian populations. According to UNFPA, the male:female SRB in Albania was 111.5:100 in 2008, and in Montenegro, it was 111.6:100 for the years 2005-2009.[x]

A case of gender selection abortion has recently been referred to the Medical Board of Australia. I myself have recently had a doctor tell me that he has had patients telling him they were going to have an abortion for the sole reason of gender selection.

It would therefore be an incorrect assumption to believe that every single person immigrating into Australia leaves behind the deeply engrained cultural beliefs which lead to gender selection abortion of unborn girls. It is very likely that (a) gender selection abortions have already occurred in Australia, (b)

that these will continue to happen, and (c), that a certain (but unknown) proportion of future patients having a gender selection abortions will submit claims for Medicare funding.

Notwithstanding this, even if in the next 200 years of history in Australia, only one instance of a pregnant couple having a gender-selection abortion were to occur, *this is one instance too many of an inexcusable discriminatory offence against a female*.
By providing taxpayer funding for this one single instance, **the government would be involving itself, along with millions of taxpaying citizens involuntarily involved, in helping to perform an inexcusable offence against a female by ending her life simply because she is female.** Australians will be involuntarily financially supporting the killing of the unborn simply because of their gender.

This is a matter of whether Medicare funding for this is right, not a matter of proving that such a thing has already happened. Even in the implausible case that gender selection abortion hasn't happen yet, it will happen in the future.

An Example of a Submission Relying on Faulty Reasoning:
Submission 02, Women's Health Victoria (WHV).

As a concrete example of how several submissions rely on faulty reasoning, I will point out such faulty reasoning in Submission 02, from Women's Health Victoria. I have seen a number of submissions (such as 03 and 130) which have used the same arguments using false logic.

To be fair, some of the submissions in favour of Senator Madigan's proposed amendment also contain flawed logic, and one must read carefully

Submission 02 addresses the five points listed in the terms of reference. However, Women's Health Victoria's arguments under at least four of these headings are flawed for the following reasons, which I will deal with under the same headings.

1. The unacceptability to Australians of the use of Medicare funding for the purpose of gender selection abortions

Women's Health Victoria argues that there is no reliable evidence to indicate that this is happening. As outlined above, it is not relevant whether or not it is happening. The amendment is concerned with whether it is right that taxpayer funding be used should it happen in the future. WHV also argues that there is no evidence to suggest that Australians find this unacceptable.

I previously mentioned the 2011 study which found that that 80 percent of respondents disapproved of sex-selection abortions.[xi] Additionally, a Galaxy Poll of 300 people conducted this year found that 92 percent of those surveyed disapproved of gender-selection abortion.[xii] While it is correct that it difficult to find reliable published documentary evidence that most Australians find Medicare funding of these unacceptable, logic would suggest that it is very easy to ascertain whether most of the population who would find such Medicare funding unacceptable: by simply asking a cross section of people what they think. It is inconceivable that with such a high percentage of people disapproving of gender-selection abortion, that most would not approve of their tax money being spent to provide Medicare funding for these. A very simple issue of public opinion such as this can be easily determined without requiring an extensive study.

2. The prevalence of gender selection - with preference for a male child - amongst some ethnic groups present in Australia and the recourse to Medicare funded abortions to terminate female children

The WHV submission implies that as it cannot be ascertained that gender-selection abortions occur in Australia, the government should continue to allow its funds to be potentially used for such purposes. This is faulty reasoning. Not being able to prove that something is happening now is not the same as proving that it will not happen in the future. Unless there is a **zero possibility that gender selection abortions will ever happen in the future history of Australia**, we should ensure that no taxpayer funding will be made available for that purpose. Even one single occurrence would be one occurrence too many of a discriminatory act on an unborn girl due to her gender, and we must not provide financial payments for this using taxpayer funds. Indeed, one case of gender-selection abortion has already been referred to the Medical Board of Australia. As per my arguments earlier, one would be naïve to believe that this is the only single instance of this, and that the rate of gender-selection abortions will now fall to zero from now on, and continue this way for the remainder of history!

Women's Health Victoria itself admits it does not support gender-selection abortions.[xiii] If Women's Health Victoria is opposed to these, on the basis of gender inequality, it should support any measures to prevent taxpayer funding of this practice.

The WHV submission is also faulty at this point because it argues that the government should not *restrict* gender-selection abortions, on the basis that government restriction has had little effect overseas. This is not relevant, as the Senator Madigan's proposed amendment is not that the government legislate against

the practice of gender-selection abortions, but that *Medicare funding* should not be available for such procedures. The WHV submission is incorrectly equating the removal of Medicare funding with legislation against the practice itself.

3. The use of Medicare funded gender-selection abortions for the purpose of 'family-balancing'

Again, the WHV submission implies that as there is no reliable evidence that the above currently happens, the amendment must not be passed, and – by extension – government funding must be available for this. It does not follow that even if the above has not yet happened, that it will not happen for a certain (unknown) proportion of gender-selection abortions in the future.

WHV diverts the argument by asserting that "women should be able to make their own reproductive choices with dignity and freedom from stereotypes and stigma". Firstly, it is incorrect that women (or men) should be free to make their own reproductive choices *if that particular practice is wrong, and results in a discriminatory act against an unborn girl simply because of her gender*. Nobody has the right to do what is wrong. Women's Health Victoria itself admits that they are opposed to gender-selection abortion.

Secondly, and notwithstanding, this is a red herring argument. As I have stated before, the proposed amendment does not make legislative restrictions on gender-selection abortion: it stipulates that Medicare funding should not be available for it.

I would suggest that this appeal using the terminology, "reproductive choices" and "dignity and freedom" may have been carefully designed to provoke a strong emotive response in readers such as you or me. When such an emotive response is triggered in our minds, we tend to overlook flaws in the argument (for example, we forget that we do not in fact have the right to do anything we want if the action is wrong, such as performing a discriminatory act on an unborn girl simply because of her gender.

4. Support for campaigns by United Nations agencies to end the discriminatory practice of gender-selection through implementing disincentives for gender-selection abortions'

I agree totally with Women's Health Victoria that other methods are needed to reduce gender-selection abortions. I commend WHV in correctly assessing this.

However, their submission relies on a false argument to then conclude that government funding through Medicare must therefore continue. The presence of other methods which are more effective does not remove the fact that Medicare funding for gender-selection abortions involves both the government and taxpayer funds in a practice which is wrong. The practice is also unacceptable to the vast majority of Australians, and Women's Health Victoria itself opposes it.

Conclusions

Thus I ask you to consider the following conclusions.

1. The argument at hand is about whether it is right that government funds should be made available for gender-selection abortions.
2. All of the submissions I have read opposed to the amendment contain faulty reasoning by attempting to prove or disprove occurrences not pertinent to the above usage of government funds. Examples include arguing that as other methods are more effective at reducing gender-selection abortions, the government should fund such abortions through Medicare.
3. Under the *Health Insurance Legislation* Act (1983) section 82, gender selection abortions carried out solely because of the gender of the foetus must be legally considered to be an "inappropriate practice" in the context of Medicare. This conclusion by itself warrants the implementing of the amendment.
4. We must assume that cases of gender-selection abortion will happen in future history, and that a certain unknown proportion of the parents will apply for Medicare funding. We must act to ensure that any such happening, is not funded by taxpayers. Such funding would be to involve the

government and the public in financially aiding an act which discriminates against females on basis of gender alone. This conclusion by itself also is sufficient cause to implement the amendment.

Yours faithfully,

References

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