

POSITION SUMMARY

MEDICARE REBATES FOR CIRCUMCISION

OUR POSITION

Claims for Medicare rebates for clinically indicated circumcisions of the penis are often incorrect or fraudulent, to the point they are even claimed for 'circumcising' girls. We must determine the extent of wrongly claimed benefits intended for clinically relevant circumcisions of the penis and ensure all claims for 'circumcising girls' are in fact coding errors and not government-funded female genital mutilation.

RECOMMENDATIONS

1. Audit Medicare rebates for circumcisions of the penis to determine the extent of benefits wrongly claimed for procedures that are not clinically relevant.
2. Ensure compliance so that all Medicare rebates for circumcisions of the penis only apply to clinically relevant procedures as intended and required by law.
3. Investigate why Medicare rebates intended for clinically relevant circumcisions of the penis are being claimed to 'circumcise' girls.

BENEFITS

- Cost savings totalling more than \$2.6 million per annum.
- Ensuring compliance with legal and Medicare requirements.
- Reduction in harmful and unnecessary cosmetic circumcision procedures that breach medical ethics and the human rights of children, and which likely constitute criminal injury.

KEY POINTS

- Medicare rebates exist for circumcisions of the penis that are 'clinically relevant' under the law.
- A 'clinically relevant' service is one provided by a medical practitioner that is generally accepted in the medical profession as being necessary for the appropriate treatment of the patient.
- Neither the Royal Australasian College of Physicians (RACP), nor any other professional medical body worldwide, recommends the routine cosmetic circumcision of minors as necessary for the appropriate treatment of any condition.
- A minority of penile circumcisions in Australia are for religious reasons, with most performed for purely social and cosmetic reasons so a boy 'matches' his father.
- Medical practitioners at private clinics throughout Australia are incorrectly and, in some cases, fraudulently claiming Medicare rebates for cosmetic circumcisions performed for social, cultural, and religious reasons (procedures that are not clinically relevant).
- Claiming Medicare rebates for non-clinically relevant circumcisions would appear to be an offence under the *Health Insurance Act 1973* (Cth) and the *Criminal Code 1995* (Cth).

EVIDENCE BRIEF

MEDICARE REBATES FOR CIRCUMCISION

BACKGROUND

History of Medicare rebates for circumcision

In 1985, the then federal Minister for Health removed the rebate for newborn circumcision from the Medicare Benefits Schedule (MBS). This was in accordance with the 1983 recommendations of the Australian National Health and Medical Research Council, which found ritual circumcision to be both unnecessary and hazardous.¹ However, the Medicare rebate was quickly reinstated following lobbying by religious groups, even though most circumcisions in Australia are performed for purely cosmetic rather than religious reasons.

No medical support for unnecessary circumcision

The Royal Australasian College of Physicians (RACP) does not recommend the circumcision of infants and minors for cosmetic, social, cultural, or religious reasons,² nor does any other professional medical body in the world.³ In 2010, the RACP said the following:

“Ethical and human rights concerns have been raised regarding elective infant male circumcision because it is recognised that the foreskin has a functional role, the operation is non-therapeutic and the infant is unable to consent. After reviewing the currently available evidence, the RACP believes that the frequency of diseases modifiable by circumcision, the level of protection offered by circumcision and the complication rates of circumcision do not warrant routine infant circumcision in Australia and New Zealand.”⁴

There is no medical justification for claiming Medicare rebates intended for therapeutic circumcisions when the circumcision is for cosmetic, social, cultural, or religious reasons.

CURRENT PRACTICE

Current use of Medicare rebates

In 2018, an MBS Review Taskforce was established. As part of the review, the Urology Clinical Committee published recommendations that said the MBS should continue to include circumcisions of the penis conducted for religious and cultural reasons.⁵ In May 2019, the Paediatric Surgery Advisory Group affirmed the above recommendation.⁶ This recommendation has no medical basis and is inconsistent with the position of the RACP. Circumcision for religious or cultural reasons is not clinically indicated and therefore ineligible for Medicare rebates intended for clinically relevant procedures.

Medicare rebates for circumcision are specifically for circumcision of the penis, not the clitoris.⁷ The excision of the female foreskin without consent or sufficient medical justification is considered Type Ia female genital mutilation (FGM). All forms of FGM are contrary to the United Nations Sustainable Development Goals,⁸ and

¹ National Health and Medical Research Council, 95th Session, Adelaide (June 1983), p 130.

² Royal Australasian College of Physicians, ‘Circumcision of infant males’ (September 2010)

<https://ranzocg.edu.au/RANZCOG_SITE/media/RANZCOG-MEDIA/Women%27s%20Health/RACP-Circumcision-of-infant-males-2010.pdf?ext=.pdf>

³ For example: <<https://circumcision.org/circumcision-policies-of-international-organizations>>

⁴ Op cit. 2.

⁵ Medicare Benefits Review Schedule Taskforce, ‘Final report on the review of urology MBS items’ (2018)

<<https://www.health.gov.au/sites/default/files/documents/2021/05/taskforce-final-report-urology-clinical-committee-final-report-on-the-review-of-urology-mbs-items.pdf>> 65.

⁶ Medicare Benefits Review Schedule Taskforce, ‘Report from the Paediatric Surgery Advisory Group (May 2019)

<[https://www1.health.gov.au/internet/main/publishing.nsf/Content/mbs-review-2019-taskforce-reports-cp/\\$file/Final-Report-Paediatrics-August-2019.pdf](https://www1.health.gov.au/internet/main/publishing.nsf/Content/mbs-review-2019-taskforce-reports-cp/$file/Final-Report-Paediatrics-August-2019.pdf)> 16, 19.

⁷ MBS Item 30654 – Circumcision of the penis with topical or local analgesia; and MBS Item 30658 – Circumcision of the penis under general or regional analgesia.

⁸ United Nations, ‘Goal 5: Achieve gender equality and empower all women and girls, Target 5.3 Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation’, Department of Economic and Social Affairs, Sustainable Development, United Nations <<https://sdgs.un.org/goals/goal5>>

have been criminalised in every Australian jurisdiction.⁹ Despite this, according to Medicare data, 1513 girls and women were ‘circumcised’ between July 2013 and June 2020, and of this, just over half (50.7%) were under the age of 15.¹⁰ It is unlikely this can all be explained by coding errors. An investigation is needed to determine if Medicare benefits claimed for female ‘circumcisions’ were indeed for medically unnecessary amputations of the female foreskin performed in the absence of informed consent.

Legal considerations

Claiming the Medicare rebate for non-clinically relevant circumcisions may constitute offences under the *Health Insurance Act 1973* (Cth) and the *Criminal Code 1995* (Cth). Section 10(1) of the *Health Insurance Act 1973* (Cth) provides that Medicare benefits are payable for professional services. A professional service is defined as a ‘clinically relevant’ service if it is generally accepted in the medical profession as necessary for the appropriate treatment of the patient.¹¹

The RACP and the Urological Society of Australia and New Zealand do not recognise routine infant or cosmetic circumcision as necessary or appropriate to treat any condition. As most circumcisions in Australia are performed on non-consenting minors in private clinics for purely social reasons or in some cases cultural or religious reasons, it is self-evident that most circumcision procedures are not clinically relevant and do not qualify for the Medicare rebate.

Existing Medicare rebates do not need to be removed, as was attempted in 1985, but rather only applied to ‘clinically relevant’ circumcisions and intended and in accordance with the law and Medicare requirements.¹² The claiming of Medicare rebates intended for clinically relevant circumcisions, for what qualified medical practitioners must know to be unnecessary and non-clinically relevant circumcisions, is dishonest and constitutes fraud against the Commonwealth, the penalty for which is imprisonment for 10 years.¹³

Social and economic costs associated with fraudulent claims

Medical practitioners are incorrectly and, in some cases, fraudulently claiming Medicare rebates intended for clinically relevant circumcisions.¹⁴ Australian taxpayers are therefore funding unnecessary and harmful procedures on non-consenting minors. These procedures breach medical ethics and human rights and cause physical and psychological harms.¹⁵

In the 2018 financial year, \$2,600,000 worth of Medicare rebates were claimed for circumcision procedures.¹⁶ With continuing costs, and many tens of millions of taxpayer dollars in rebates having been distributed over the last few decades, an audit is needed to determine the extent of unlawful claims.

CONCLUSION

The costs associated with incorrectly and fraudulently claimed Medicare rebates for circumcision procedures are non-trivial and increasing. There should be an audit of Medicare rebates intended for clinically relevant circumcisions of the penis to determine the extent of incorrectly or fraudulently claimed benefits. This should include an investigation into Medicare rebates for ‘circumcisions’ of female minors to ensure the Federal Government is not inadvertently funding female genital mutilation.

⁹ *Criminal Code Act 1899* (Qld) ss 323A-323B; *Crimes Act 1900* (ACT) ss 73-77; *Crimes Act 1900* (NSW) ss 45-45A; *Criminal Code Act 1916* (WA) s 306; *Criminal Code Act 1924* (Tas) ss 178A-178C; *Crimes Act 1958* (Vic) ss 32-34A.

¹⁰ Glass, Michael, ‘Blurring the line: Medicare and FGM: What is going on?’ (December 2020) *The Australian Rationalist*.

¹¹ *Health Insurance Act 1973* (Cth), s 3.

¹² *Health Insurance Act 1973* (Cth); Circumcision on the MBS – Factsheet 9 October 2020

<[http://www.mbsonline.gov.au/internet/mbsonline/publishing.nsf/Content/1C7B3AED38006462CA2585E80009D95C/\\$File/Factsheet-Circumcision.pdf](http://www.mbsonline.gov.au/internet/mbsonline/publishing.nsf/Content/1C7B3AED38006462CA2585E80009D95C/$File/Factsheet-Circumcision.pdf)>

¹³ *Criminal Code 1995* (Cth), Division 135.

¹⁴ MBS Item 30654 – Circumcision of the penis with topical or local analgesia; and MBS Item 30658 – Circumcision of the penis under general or regional analgesia.

¹⁵ Jonathan Meddings and Travis Wisdom, ‘Genital Autonomy’ (February 2017) *The Rationalist Society of Australia*

<https://www.academia.edu/32477639/RSA_White_Paper_Genital_Autonomy>

¹⁶ Op cit. 6 p.16.

RECOMMENDATIONS

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