

## Chapter 15

# NORTH CAROLINA MEDICAID AND THE FUNDING OF ROUTINE NON-THERAPEUTIC CIRCUMCISIONS

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**Abstract:** There is growing sentiment across the United States that tax dollars should not be wasted on medically unnecessary circumcisions. Bills have been introduced in California, Florida, Mississippi, Missouri, Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, Washington, as well as some private HMOs serving Oklahoma's Medicaid recipients, to eliminate Medicaid funding of elective circumcision. This paper focuses on the successful efforts of citizens of North Carolina to lobby the state legislature to eliminate Medicaid funding for routine infant circumcision and instead provide for only the medically necessary needs of its state residents.

**Key words:** Medicaid, circumcision

## 1. INTRODUCTION

Effective 1 November 2001, North Carolina Medicaid suspended payments for routine circumcision. This policy change was announced to all North Carolina physicians in October 2001 through the state Medicaid bulletin by stating "The American Academy of Pediatrics (AAP) policy on circumcision states that the benefits are not significant enough for the AAP to recommend circumcision as a routine procedure"<sup>1</sup>

The practice of routinely circumcising male babies is not recommended or endorsed by any national or international medical organization in the world. The American Medical Association,<sup>2</sup> the American Academy of

Pediatrics,<sup>3</sup> and the American College of Obstetrics and Gynecology<sup>4</sup> consider routine circumcision of male infants to be a medically unnecessary procedure performed for cosmetic, social, or religious reasons, and these organizations do not recommend it as a routine medical procedure.

Worldwide, circumcision of the male or female genitals is rare. Routine circumcision is not performed in Europe, Australia, most of Asia, Latin America, or in South America. Eighty-five percent of the world's male population and ninety-eight percent of the world's female population are not circumcised.<sup>5</sup>

The North Carolina legislative action was part of a growing movement across the nation against tax dollar funding of medically unnecessary circumcisions. Six state Medicaid agencies, California, North Dakota, Oregon, Washington, Nevada, and Mississippi, as well as some private HMOs serving Oklahoma's Medicaid recipients have already suspended coverage for optional circumcisions.<sup>6</sup> In spring of 2001, the Michigan Legislature began debating a bill to end Medicaid circumcision funding, the status of that bill is still pending.<sup>7</sup>

## 2. INITIAL MEDIA AND MEDICAL ESTABLISHMENT REACTION

When the new circumcision policy was announced, a handful of North Carolina physicians began pressuring the North Carolina Legislature to reinstate circumcision funding.<sup>8-9</sup> A state newspaper profiled these physicians' effort to alert the North Carolina Legislature about their discontent. On 31 October 2001, the *Raleigh News and Observer* ran a front-page news story titled "Medicaid won't cover circumcision" detailing complaints from doctors upset about this policy change.<sup>10</sup> The article detailed plans state physicians were undertaking to reverse the policy of not funding routine non-therapeutic circumcision. According to the article, Valerie Parisi, MD, chair of the OB/GYN Department at University of North Carolina Hospital, held discussions with the heads of the large hospitals and medical schools within North Carolina to create a position paper advocating that the North Carolina Legislature reinstate elective circumcision funding.<sup>11</sup> William Hubbard, MD, President of the North Carolina Pediatric Society, was quoted in the same article as saying, "As advocates for children, the North Carolina Pediatric Society would like Medicaid families to have the same choices for children that everybody else has."<sup>12</sup> This position is confounding given his recent statement published in January's *Governing Magazine* in which Hubbard declares, "We don't advocate circumcision as a medical necessity."<sup>13</sup> The *News and Observer* article reported on the position

of doctors upset over loss of non-medical circumcision funding, yet it did not interview anyone that supported the policy change. The reporter and her editor were contacted by several individuals that requested the *News and Observer* interview North Carolina citizens that supported this new policy. The editor hung up on Dr. Kenneth Baker, a practicing North Carolina obstetrician and expert on the foreskin and circumcision, when he requested equal press coverage regarding why many North Carolinians supported the state not covering elective circumcision.<sup>14</sup> During this same time period, no other major newspaper in North Carolina covered this story.

### 3. ECONOMIC INCENTIVE FOR MAINTAINING ROUTINE CIRCUMCISION

United States Medicaid finances over twenty-five percent of all infant circumcisions nationwide.<sup>15</sup> In North Carolina, one out of every two pregnant women receives Medicaid assistance.<sup>16</sup> North Carolina physicians earn more to perform unnecessary circumcisions on Medicaid babies than physicians in almost every other state in the nation. In the year 2000, North Carolina Medicaid paid physicians \$166 for elective circumcision, nearly double the US Medicaid average of \$85.19.<sup>17</sup> Most other states pay substantially less. New York reimbursed only \$12, New Jersey \$16, Maryland \$18, Colorado \$38.11, and Texas \$50.75 in 2000.<sup>18</sup> In 1999, North Carolina Medicaid spent more on unnecessary circumcision than almost every state in the nation.<sup>19</sup> For calendar year 2000, North Carolina Medicaid wasted \$1.8 million dollars funding elective circumcisions.<sup>20</sup> Longer hospital stays that result from circumcision also add to the total Medicaid costs. Professor Christopher J. Mansfield of the East Carolina University School of Medicine conducted a study of cost factors and the length of hospital stay associated with routine male circumcision. Professor Mansfield and colleagues reported that, when an infant is scheduled for circumcision, both mother and child remain in the hospital an average of six hours longer than they would if no circumcision were scheduled. Professor Mansfield reports that, during this time, both mother and baby consume large and expensive hospital services including room, board, nursing services, nursery care, and other services.<sup>21</sup> Professor Mansfield and colleagues estimate that the longer stay by each mother and child for circumcision adds \$900 per day to the total hospital bill in 1990-91 dollars. Therefore, 0.26 day multiplied by \$900 equals \$234.00 in increased hospital costs per circumcised child in addition to the actual circumcision fee.<sup>22</sup>

A recent study in *Pediatrics* concluded that physicians significantly under-informed parents regarding the risks and benefits of routine non-

therapeutic circumcision.<sup>23</sup> This study found that nine out of ten parents were not given adequate information, and some male infants are being circumcised without parental consent or knowledge. This is especially true for economically or educationally disadvantaged parents. The American Academy of Pediatrics stresses in their current 1999 policy statement that “Physicians counseling families concerning this decision should assist parents by explaining potential benefits and risks, and by ensuring that they understand circumcision is an elective procedure.”<sup>24</sup>

#### 4. CONTINUED MEDIA PRESSURE

The media pressure on the North Carolina Legislature to reinstate funding continued with an opinion column by Ruth Sheehan that ran in the *Raleigh News and Observer* on 5 November 2001 titled “Save \$200 and Shame a Poor Boy.” Ms. Sheehan laments that, “...thanks to North Carolina state lawmakers (many of whom ought to be minding their own zippers, thanks), boys born to mothers receiving Medicaid will no longer be circumcised with state dollars. Instead they will be marked with the scarlet P; or U (for uncircumcised).”<sup>25</sup> Ms. Sheehan’s commentary is not supported by current national statistics on infant circumcision showing that nearly half of American parents in 1999 chose to protect their newborn sons from circumcision, and over sixty percent of parents on the West Coast decline this elective procedure.<sup>26</sup>

During the month of November, the *News and Observer* printed ten letters to the editor responding to their coverage of circumcision; not one letter supported reinstatement of tax funding for unnecessary circumcisions.

#### 5. LEGISLATIVE ACTION TO APPEASE DOCTORS

The North Carolina House added funding for “optional” circumcisions to Senate Bill 841, a bill with numerous other unrelated clauses, and passed it on 16 November 2001. North Carolina Representative David Redwine, co-chairman of the House Appropriations Committee, was quoted by the *News and Observer* as saying, “That cut will be restored, if you’ll pardon the description.”<sup>27</sup> After the House passed Bill 841, the bill then went to the North Carolina Senate for approval.

## **6. GRASSROOTS EFFORTS AND LEGISLATIVE SUPPORT BUILDS**

As North Carolina taxpayers, concerned parents, and citizens became aware of the legislative attempt to restore optional circumcision funding, they launched into action — telephoning, e-mailing, and writing the senators with their concerns. Legislators reported being overwhelmed by hundreds of contacts.<sup>28-30</sup>

In the final days of the legislative session, North Carolina citizens were receiving very encouraging news from the senators. Senate Appropriations Chairs Odom and Forrester, as well as committee member Senator Moore all expressed strong support in e-mails to constituents and indicated that the Senate would not pass the reinstatement of funding by the House.<sup>31-33</sup>

## **7. THE GOVERNOR GETS INVOLVED AND FUNDING IS REINSTATED**

In the final days, however, many senators also started reporting that the pressure to keep circumcision funding was coming from the Governor's office.<sup>34</sup>

No action had been taken on SB 841 by the final day of the legislative session, 6 December 2001. It appeared no action would be taken on this bill before the session ended. During the final hours of the session some key senators on the appropriations committee in the senate had already gone home. The final voting record shows that fifteen of the fifty senators were not present for the vote.<sup>35</sup> In last minute budget negotiations, Section twelve reinstating funding for optional circumcisions was taken out of Senate Bill 841 and added to House Bill 231, becoming section nineteen.<sup>36</sup> This bill was then approved by the Legislature along with numerous other bills before officially adjourning. HB 231 was long, and considering that legislators were giving approval to numerous bills in the session's final hours, it is unclear how many of the legislators knew that optional circumcision funding had been added to the bill. The final voting record shows only twenty-three of fifty senators voted in favor of HB 231, and of these senators, some informed constituents that they did not support the circumcision clause even though they voted for the overall bill.<sup>37-39</sup> In the House, seventy-eight of the one-hundred-twenty representatives voted for the overall bill.<sup>40</sup>

Franklin Freeman, a close aide to Governor Michael Easley, reported that the Governor went out of his way to make sure circumcision funding got reinstated because he did not want Medicaid children to be marked as poor.

Freeman admitted the Governor also received guidance and counseling from his brother, an obstetrician practicing in North Carolina.<sup>41</sup>

## 8. CONTINUED MEDIA BIAS

*Governing Magazine* continued the media distortions of the North Carolina Medicaid controversy in their January 2002 issue. Despite the small number of legislators in favor of circumcision funding, *Governing Magazine* reports, "The legislature abruptly changed course and voted overwhelmingly to restore funding."<sup>42</sup>

Donna Larkin is a North Carolina mother with three children who recently were added to a state sponsored health insurance program, but beforehand had no health insurance at all. Larkin's children had been on a state waiting list for almost a year before they were able to acquire the state sponsored insurance. Larkin, a grocery store clerk, and her disabled husband continue to be without any medical insurance. She objected to non-medical circumcision funding with her tax dollars when her own family could not receive assistance for basic medical needs. Larkin contacted the *News and Observer* and asked the paper to write a story about her situation and the North Carolina taxpayer's perspective of this issue, but they declined, saying they felt the paper had already covered enough of this circumcision story.<sup>43</sup> Donna also called the *Raleigh Associated Press* and some other North Carolina newspapers, but they did not feel people were upset about taxpayer funding of non-medical procedures.

## 9. THE CONCLUSION OF THE 2001 LEGISLATIVE SESSION

Following the conclusion of the 2001 legislative session, the President Pro Tempore of the North Carolina General Assembly, Marc Basnight, sent a letter to all North Carolina citizens who contacted him about this issue. He states, "While I understand there is debate in the medical community about the merits of circumcision, I supported this legislation because I believe it is important, when possible, to allow Medicaid patients the same choice for care that patients with private medical insurance receive....My hope is that the General Assembly's action on this issue will allow parents of Medicaid-eligible children will [sic] make the decision about circumcision the same way those parents with private insurance do: by discussing the procedure with their family doctor and making a rational, informed decision about which option best reflects their values."<sup>44</sup>

While making circumcision funding a budget priority, the Legislature failed to provide for the medical needs of the state's poor and disabled citizens. Despite a current lawsuit, the General Assembly failed to allocate the money needed to provide adequate dental care to the state's 672,000 poor children struggling to get this care. Currently Medicaid children in forty of the state's counties have no access to any private dentist because the reimbursement rates for dental care are deplorably low.<sup>45</sup> The state's impoverished disabled elderly citizens also did not fare well at the conclusion of the legislative session. Budget cuts froze the program that offers in-home assistance to elderly poor who qualify. According to an article in the *News and Observer*, "Advocates for the elderly say state Medicaid officials took the easy way out and should have trimmed other Medicaid services instead of completely freezing the one for the disabled elderly."<sup>46</sup>

## **10. THE FUTURE OF THE MEDICAID BATTLE IN NORTH CAROLINA**

North Carolina is currently experiencing a budget deficit of at least \$900 million dollars. Governor Easley has issued a seven percent budget cut.<sup>47</sup> Medicaid currently accounts for thirteen percent of the total General Fund budget in North Carolina, and traditionally has shown a fifteen percent annual growth rate.<sup>48</sup> The state Medicaid program is currently facing a \$108 million budget shortfall.<sup>49</sup> The North Carolina Legislature reconvenes in May 2002, but the appropriations leaders will most likely return earlier to work on the budget crisis. It is predicted that severe cuts to Medicaid will need to be part of a feasible budget.<sup>50</sup>

There is growing sentiment across the nation that tax dollars should not be wasted on medically unnecessary circumcisions. In addition to the legislative actions in North Carolina during the past year, bills have been introduced in Missouri, Michigan, and New Mexico to eliminate elective circumcision funding through Medicaid. Given the waning popularity of elective circumcision and the pressure on North Carolina to reduce unnecessary expenditures, North Carolina citizens opposed to tax dollar funding of non-medical circumcision hope North Carolina will soon join other states in recognizing that tax dollars should not fund optional cultural circumcisions, and instead provide for only the medically necessary needs of its state residents.

## 11. ADDENDUM, SUMMER 2003

The North Carolina legislature eliminated Medicaid funding for routine infant circumcision during the 2002 legislative session, effective 1 December 2002.<sup>51</sup> In addition, five other state Medicaid programs also defunded circumcision in 2002: Arizona, effective 1 November 2002; Missouri, effective 1 July 2002; and Montana, effective 1 January 2002.<sup>52-54</sup> In 2003, Utah and Florida also eliminated Medicaid payment for elective circumcisions, bringing the total number of states that do not cover elective circumcisions under Medicaid to twelve.<sup>55-56</sup>

Grass roots efforts in several other states have formed to demand that states eliminate the subsidy of this unnecessary and harmful cultural practice using tax dollars.<sup>57</sup>

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