Woman loses fight for parents' right to know of abortion advice

Clare Dyer *legal correspondent, BMJ*

A mother of two teenage daughters this week lost her legal battle in the High Court in London for parents' right to know if girls under 16 are being advised on abortion.

Mr Justice Silber ruled that parents' rights under human rights legislation were overridden by children's right to confidentiality, if they were mature enough to understand the implications and therefore competent to take such decisions.

The ruling upholds the legality of guidance issued by the Department of Health in 2004 to try to stem the rise in teenage pregnancies and sexually transmitted diseases. This states that children should be urged to talk to their parents or another adult when seeking advice and treatment for sexually transmitted

diseases or about contraception or abortion. But unless there is a risk to a child's health or welfare that is serious enough to outweigh the duty of confidentiality, the guidance says doctors cannot insist that their parents are told.

To force a girl to involve her parents might discourage her from seeking medical help and might "lead her to make a decision that she later regrets or seek the assistance of an unofficial abortionist," said the judge.

The challenge was brought by Sue Axon, 52, a divorced mother of five. The court was told that she regretted having had an abortion herself 20 years ago.

Mrs Axon has two teenage daughters, Joy, 16, and Amber, 13, but the judge was told that they had not sought abortions

and that their mother was bringing the case as a matter of principle. During the hearing it emerged that Joy had become pregnant and planned to keep her baby.

Mrs Axon had argued that the health department's guidance infringed her rights as a parent under Article 8 of the European Convention on Human Rights, which safeguards the right to private and family life.

But the judge said that children also had rights under Article 8, which overrode the parents' rights. In the light of the "general movement towards now giving young people greater rights concerning their own future," it would be "wrong and not acceptable" to retreat from the 1986 House of Lords decision in the case of Victoria Gillick, he added.

In that case the law lords ruled that parents did not have to be told that their children were being prescribed contraceptives if the children were

mature enough to take such decisions themselves.

The public health minister for England, Caroline Flint, said: "This judgment confirms that our guidance is fully in line with the law." She pointed out that confidentiality was not absolute and that where a health professional believed a serious risk was posed to a young person's health, safety, or welfare the case should be referred through child protection procedures.

The children's commissioner for England, Al Aynsley-Green, welcomed the judge's ruling. "Downgrading a young person's right to confidential advice would inevitably have had serious consequences and exacerbated existing problems in the sexual health of adolescents in this country," he said.

The ruling was also welcomed by the BMA and the Medical Defence Union. But the Lawyers' Christian Fellowship said the judgment "further erodes the role and status of the family in our society today." □

US health spending reaches a sixth of gross domestic product

Janice Hopkins Tanne *New York*

Total spending on health care in the United States grew by 7.9% in 2004 and now accounts for 16% of the gross domestic product, says the National Health Statistics Group of the US Centers for Medicare and Medicaid Services.

Total health spending in the US in 2004 was \$6280 (£3520; €5120) per person, or a total for the population of nearly 300 million of around \$1.9 trillion, says the group's report (*Health Affairs* 2006;25:186-96).

The increase is largely due to new medical treatments, rising prices, and greater use of services, the report says. "Medical spending continues to rise faster than wages and faster than economic growth, and workers are paying much more in health care premiums than just a few years ago," it says.

Other industrialised countries spend about 8% of their gross domestic product on health, said Karen Davis, head of the non-profit Commonwealth Fund, which works to improve

healthcare coverage and quality in the US.

"We [the US] not only spend more—but the difference [between the US and other countries] has been widening since 1980. We get less. We don't cover the entire US population. There are 46 million uninsured. The other countries have universal health insurance coverage and guarantee access to care for their entire populations," she said.

In his state of the union address next week, President Bush is expected to suggest allowing small businesses to join together to form health plans; to expand health savings accounts in which people set aside money, tax free, to pay for some health costs while also buying a tax deductible health insurance policy; to expand community health centres, to increase use of information technology; and to reduce malpractice suits.

Although health spending in the US increased by 7.9% from 2003 to 2004, this was the slowest rate of increase since 2000.

Forty six million uninsured Americans rely on emergency rooms, like this one in Moreno Valley, California, for their health care

The authors of the *Health Affairs* paper say: "The health sector's share of the gross domestic product increased only 0.1 percentage point in 2004, in part as a result of an above average rate of economic growth (7.0%) in 2004, compared with 4.8% in 2003.

Spending on Medicare (the federal medical insurance programme for elderly people) and Medicaid (the programme for poor people) and spending by private payers (through private

health insurance and on costs not covered by insurance) increased at a slower rate than in previous years.

However, hospitals' spending, payments for doctors' services, and payments for home health care increased at a higher rate than in the past.

Medicare spending will be subject to "a major [upward] impact starting in 2006," the report says, because of the new Medicare plan that pays for some prescription drugs. ■