

Infants and Consent

1 The problem

Some kinds of care for infants are very expensive but have relatively low quality of life outcomes. Those with Tay-Sachs get four, bad years for \$160,000; a year of care for spina bifida meningocele costs \$200,000.¹

Tay-Sachs infants ... become listless and inattentive during the first few months of life. As the disease progresses, the child loses motor abilities already gained, such as crawling and sitting, develops uncontrollable seizures, and is unable to lift its head or swallow. A cherry-red spot develops on the retina, and blindness and a general paralysis usually precede death. There is no treatment for the disease.²

Spina bifida is a neural tube defect that varies in severity. ... Spina bifida meningocele is diagnosed when ... [a meningeal pouch that projects through the skin] contains elements of the spinal cord or nerve roots. Function of the legs and bladder and bowel control is often severely impaired in individuals with spina bifida. Infants with the defect commonly have hydrocephalus as well.³

But, a necessary condition for rationing care does not apply to infants. They (or people acting as their proxies) wouldn't consent to rationing because they would not even have a chance of benefiting from savings.

2 Menzel's solution

Infants are not persons with inherent rights. So we may ration their care without their consent.

¹ Paul T. Menzel, *Strong Medicine* (Oxford University Press, 1990), p. 98.

² Tay-Sachs disease. (2007). In *Encyclopædia Britannica*. Retrieved November 14, 2007, from Encyclopædia Britannica Online: <http://search.eb.com/eb/article-9071452>

³ Nervous system disease. (2007). In *Encyclopædia Britannica*. Retrieved November 14, 2007, from Encyclopædia Britannica Online: <http://search.eb.com/eb/article-75716>

Death is bad when it deprives us of something we're looking forward to. That's why we regret dying sooner than later but don't regret not having been born earlier than we were. Infants don't have expectations, so their deaths aren't that bad.

So can we run horrible experiments on them to test cosmetics? No.

1. All infants who will live to maturity have the basic rights of persons.⁴
2. Infants have rights *derived* from the interests of persons.⁵

3 Alternatives

1. Don't ration care for infants.
2. Deny that there is a standing, presumed obligation to provide care. No obligation, no need for consent to waive it. We provide care either when:
 - a. That's what the social insurance policy requires.
 - b. When we think it's appropriate, humane, useful, or whatever.

Question: if infants' rights are derived from our interests, then aren't we right back where we started? What do we think we should do?

⁴ Menzel, *Strong Medicine*, p. 105.

⁵ Menzel, *Strong Medicine*, p. 106.