

## **Health Care Reform: What It Means for Fertility Treatment Around the World**

Although the Affordable Care Act is still in place for now, the future of health care in the U.S. is uncertain. That uncertainty is even more salient for couples facing infertility. With the Trump administration pledging to defund Planned Parenthood and repeal Obamacare, many families are left wondering whether they'll be able to access fertility treatments in the future.

According to the National Infertility Association, 1 in 8 couples has difficulty getting pregnant. These couples often turn to fertility medication, in vitro fertilization or surrogacy to have children, but changes in insurance coverage could make these procedures prohibitively expensive and more difficult to access.

### **Finding Coverage for Surrogacy and Fertility Treatment**

Fertility treatments are not considered essential under the Affordable Care Act, so few insurance companies offer comprehensive coverage for them. However, infertility is no longer a preexisting condition, which means that insurance companies cannot deny coverage entirely to women who are dealing with infertility. Although fertility coverage is not required across the board, there are some individual states that mandate coverage, which can range from basic fertility testing to full coverage for a range of procedures. For example, in California, health care service plan contracts are required to offer fertility coverage, but they are not required to cover IVF.

As for surrogacy, insurance companies are currently required to cover maternity care for women who become pregnant. If a couple pursues surrogacy and their gestational carrier's insurance covers her pregnancy, the couple is only responsible for paying any out-of-pocket costs and copays. The catch is that maternity care doesn't necessarily include pregnancy as a result of surrogacy. In fact, only a handful of private insurers cover it.

Still, even if the surrogate's insurance does not provide coverage, the parents' insurance may cover aspects of the procedure, such as egg removal and fertilization, and they can take out a separate surrogacy insurance policy. Considering that surrogacy can cost up to \$150,000 even with insurance, any amount of coverage can help.

If Trump's health care plans come to fruition, however, it's likely that surrogacy and infertility coverage will be even harder to find and afford. Without being mandated to cover infertility treatment or pregnancy, insurance companies have very little incentive to cover such costly procedures. The deductibles for coverage that *is* available will most certainly be more expensive. If current health care regulations are repealed, it's possible that the cost of surrogacy could double, making the procedure even less accessible and leaving couples trying to have children with fewer options.

Aside from increasing out-of-pocket medical costs, a decline in insurance coverage may also cause basic surrogacy fees to go up. Of the \$100,000 to \$150,000 total cost of surrogacy, generally \$25,000 to \$35,000 goes to the gestational carrier as payment. Surrogates who have insurance may ask for a higher fee, since they're saving the intended parents from paying entirely out of pocket. Although finding a gestational carrier with insurance has always been an important criterion for parents, surrogates who have insurance will be even more desirable if surrogacy coverage becomes less common—and parents who can afford it may be willing to pay higher fees, driving up the average cost of surrogacy for everyone.

## **U.S. Health Care Changes Will Have International Implications**

Changes in U.S. health care will affect families far beyond America's borders. International surrogacy has become a booming business in California, as parents from around the world travel to the state for surrogacy and egg freezing services.

Families, particularly Asian families, come to the U.S. to pursue surrogacy for a variety of reasons. In some cases, surrogacy is taboo or entirely illegal in their home countries, while in other areas it is legal but unregulated. Many couples feel they can find better medical care and legal protections in America. Plus, having a child in the U.S. means that they will have U.S. citizenship.

Now that China has lifted its one-child policy, families can have more children and, therefore, may come to America multiple times to go through the surrogacy process. Embryo testing is unavailable in China and other parts of Asia, so older women often come to the U.S. specifically to have testing done. However, this trend may not last: medical professionals are predicting that embryo testing will be legalized in China the coming years, and much of the medical technology that makes America appealing to expectant mothers is making its way to Asia.

Coupled with increasing health care costs in the U.S., the acceptance of surrogacy, egg freezing and embryo testing throughout the world means that international families may be less inclined to travel to the U.S. for fertility treatments. Plus, there's no telling if limits on international surrogacy will be implemented under the new administration. If it becomes more difficult for foreign women to access fertility treatments in the U.S., California's international surrogacy industry will likely see a sharp decline.

### **What to Expect in the Coming Years**

It's difficult to predict exactly how changes in health care will impact fertility treatment. For now, couples facing infertility should carefully review their insurance policies, and surrogacy lawyers and agencies should be prepared to help clients navigate the intricacies of the process.

Families, particularly those from out of the country, should be wary of "surrogacy concierges," people who serve as middlemen and connect parents with lawyers, doctors and other surrogacy services. These concierges typically don't have any professional licensing or meet any ethical standards, yet they charge exorbitant fees for their referrals. Hopefully, concierge services will be regulated in the future. In the meantime, parents should avoid them, and surrogacy lawyers should decline any kickbacks from them.

Ultimately, parents, family law attorneys and medical professionals should keep a close eye on health care changes. While we prepare for the future, it's also important to take what action we can while existing insurance coverage and legal protections are still available. Fertility coverage may look vastly different four years from now.