Surrogacy

IVFAustralia’s guide to preparing for surrogacy
Introduction

When a woman cannot carry a pregnancy because of a problem with either her uterus or her general health, the use of a surrogate mother to carry a baby may sometimes be considered.

A surrogacy arrangement is one where a woman (the surrogate) offers to carry a baby through a pregnancy on behalf of another woman (the intended parent) and then return the baby to the intended parent once it is born.

Surrogacy is only useful in a very small number of cases and for most couples trying to conceive, it is not an effective or appropriate approach. In addition, as NSW law defines the legal mother as the woman who gives birth to the child, surrogacy is associated with serious legal complexities. There are also a number of rare but potentially catastrophic risks associated with surrogacy. These include disputes about the future parentage of the child and the possibility of a serious health complication in the pregnancy.

Surrogacy is therefore a very serious undertaking and not one that should be gone into lightly.

From IVFAustralia’s perspective, every step will be taken to ensure the success of a surrogacy arrangement both in terms of the achievement of a healthy child (or children) for the intending couple but also ensuring the satisfaction of the surrogate in her truly benevolent experience of achieving a pregnancy and carrying it through for the intending couple. In this regard, we believe the establishment of a trusting relationship between the surrogate and her partner is essential.

Finally, this program is under the oversight of our Ethics Committee. This review involves ensuring that all of our cases fall within the eligibility criteria shown and allows our surrogacy programme to be run to the highest ethical standards. Our eligibility criteria for providing this type of treatment are shown overleaf and we will advise you about these.
Implications of surrogacy

Surrogacy is a solution to the problem of a woman being unable to have a baby because she has no womb or a womb, which is incapable of carrying a pregnancy. At first consideration it may appear a simple solution to this problem as the medical procedures are relatively straightforward. However, surrogacy involves complex psychological, physical, emotional, social and legal issues for the proposed surrogate and her family and the proposed intending couple (and their family) and for the child (children) born as a result of the surrogacy process.

The intending couple have most probably been through many years of infertility and treatment and perhaps extensive medical issues and/or attempts to have children and the proposed surrogacy may be the last chance for them. On the other hand, the proposed surrogate most probably has not had trouble herself in conceiving a pregnancy and is considering carrying a baby to help another woman – a relative, a friend. She probably has no direct experience of infertility medical treatment or assisted reproduction. As with all medical treatment there are risks and consequences of assisted reproductive treatment – these need to be thoroughly considered by the surrogate and her partner before a decision is made to proceed to treatment.

Informed consent

As part of our duty of care to every patient, we have developed a comprehensive process of informing you, as much as possible, of the implications of surrogacy. The consent process includes consultations with IVFAustralia team members and with an external psychologist and an independent solicitor/barrister for each party. Your proposal is then submitted to our Ethics Committee for consideration. Depending on your situation you may also need to consult an obstetrician or psychiatrist. You must realise that there will be a substantial period of discussion and consideration time before you commit yourself to proceed with the surrogacy treatment.

Eligibility criteria

In order to reduce the risks of surrogacy to both the intending parents and the proposed surrogate, we have a number of conditions that have to be fulfilled before we will offer this treatment. These are:

1 Either the intended parent must have a defined medical disorder that makes it impossible or unacceptably dangerous for a baby to be carried in the uterus or the couple are a male same sex relationship or the couple have had transfer of multiple genetically normal (as proven by karyotyping) embryos without success.

2 The surrogate must fulfill ALL of the following criteria:
   • Her age must be greater than 25 years and less than the age of the natural menopause (less than the 52nd birthday). The only exception to this will be the unique circumstance whereby the gestational carrier is carrying a child on behalf of her daughter or daughter in-law. In this circumstance a maximum age of less than 55th birthday will apply.
   • She must have given birth to a baby, which has become a healthy child.
   • She must not have a past history of pregnancy exacerbated illnesses or pregnancy complications or have a current illness that is likely to be exacerbated by pregnancy.
   • She must have an established relationship with the commissioning parents for a period of no less than 2 years by the time of the embryo transfer.

3 Neither the carrier or the would-be parent can suffer from a significant psychiatric disorder that would impair either the decision-making around the surrogacy process, including at the time of the birth or impair the ability of the intending parents to care for the child.

4 The surrogate must not use her own oocytes although a third party donor is permissible.

Due to the risks involved in surrogacy arrangements, IVFAustralia will not provide treatment involving surrogacy unless all of the above criteria are fulfilled.

Note that, while we will keep you informed about your likely suitability, you still need to be aware that if we receive a report that suggests that surrogacy is not the right treatment for you, our Ethics Committee may not be prepared to approve us proceeding with surrogacy in your case.

IMPORTANT CAUTIONS

The use of a gestational surrogate (i.e. having a woman carry a baby through a pregnancy on behalf of another woman) is a complex and risky undertaking that is only appropriate for a small number of women who are, for medical reasons, unable to carry a pregnancy themselves.

As Medicare funding specifically does NOT allow any Medicare rebates for surrogacy, it is a very expensive procedure. It may well be that there are other, less risky approaches that will enable you to have a child successfully. Before considering surrogacy, you must seek expert medical advice to ensure that this is the right approach for you.

In addition to the medical risks, the family law surrounding surrogacy in New South Wales is extraordinarily complex. IVFAustralia requires every individual considering participation in a surrogacy program to have obtained independent legal advice before taking part.
Initial Medical consultation

A full medical history will be taken from both the intending couple and the surrogate. In particular the doctor will take and record a full history of:

- The past physical and mental health of the intending parents and will obtain all the relevant information about the indication for surrogacy
- The past physical and mental health of the surrogate
- The past obstetric history of the gestational carrier.

At the initial consultation, you will be provided with information about the assisted reproductive technologies and the medical treatment that will be required for the particular surrogacy situation. This will involve the provision of appropriate information including the pitfalls and difficulties of surrogacy.

Storage of sperm or embryos

Once an egg collection cycle has occurred and embryos have been created, you will be required to freeze these in storage for a period of a minimum of three months prior to commencement of a frozen embryo transfer cycle.

In order to avoid delays, the intending couple may wish to begin storage of sperm or embryos prior to completing preparation and formal approval of the surrogacy arrangements. You should discuss this with your doctor, if you wish to do this.

Review of the arrangement by the CD Committee

The case will be reviewed by the expert Clinical Directors Committee at IVFAustralia at the earliest possible opportunity for guidance on whether the case meets the above eligibility criteria for surrogacy.

The Clinical Directors Committee will consider whether additional specialist psychiatrist or obstetrician referrals are required in your case according to the criteria below.

Independent specialist referral

Most cases do not need any further medical assessment, however in a small number of cases, we will recommend further specialist assessment.

Psychiatrist referral. Where any of the participants in a surrogacy arrangement report any past history of mental health problems we may require a further independent assessment by an expert psychiatrist. Your doctor will advise you if this is necessary in your case.
Obstetric Physician referral. Where the surrogate may be at higher risk than normal from carrying a pregnancy, we will require a further independent assessment by an expert obstetrician. Your doctor will advise you if this is necessary in your case.

Supportive counselling sessions with an IVFAustralia counsellor

Separate counselling sessions will be held for both the intending parents and the surrogate and her partner (if applicable). The purpose of this visit is to provide information on the surrogacy preparation process, to establish a relationship with the local Clinic Counsellor and to offer support for all parties throughout the preparation and surrogacy process. The Clinic Counsellor will provide a description of the purpose and processes involved in each of the preparation steps for surrogacy.

Psychosocial counselling

The surrogate and the intending parents are required to receive implications counselling from an ANZICA-accredited counsellor.

To assist you, independent counsellors details are included as APPENDIX B to this information booklet. Note that IVFAustralia has no connection with these counsellors. We provide this information on the basis of feedback from our previous patients but otherwise cannot vouch for the quality of the advice or assessment provided.

As part of this process, the counsellor will be asked to provide a report on the counselling session that will be reviewed by the Ethics Committee.

Consultation with a solicitor

Due to the legal complexities inherent in a surrogacy arrangement, we require that all participants in a surrogacy program obtain their own independent legal advice as to their rights and obligations and the implications for any child(ren) resulting from the surrogacy arrangement:

The intending couple and the surrogate and her partner must each obtain advice from a different solicitor/barrister. It is not appropriate that one solicitor/barrister gives advice to both couples.

Each of their lawyers must provide IVFAustralia with a written certificate confirming that they have advised the couples of their rights and obligations and the implications for any child(ren) resulting from the surrogacy arrangement.

The certificates will be kept on each of the couples’ files with IVFAustralia. We do not wish to be provided with a copy of the legal advice, only the certificates confirming that the legal advice has been given to you.

To assist you, a list of suggested solicitors is included as APPENDIX A to this information booklet. Note that IVFAustralia has no connection with these solicitors. We provide this information on the basis of good feedback from our previous patients but otherwise cannot vouch for the quality of the legal advice provided.

If you wish further advice, appropriate legal counsel can be sourced by contacting The Law Society of New South Wales Solicitor Referral service. Tel (02) 9926 0300 or 1800 422 713, or via their website www.lawsociety.com.au

Investigations

All participants will be required to have blood tests carried out before proceeding and both women involved will be required to have ultrasound scans. Our nursing staff will advise you about these.

Review by the Medical Director and guidance from Ethics Committee

The case-notes including documentation of the opinion of the doctor involved and all reports received will be reviewed by the IVFAustralia Medical Director

The Medical Director at IVFAustralia will be guided by the Ethics Committee in reviewing all cases.

The absolute need to avoid intercourse during the treatment cycle

It is essential that all women acting as surrogates use appropriate contraceptive. They must ensure that there is no doubt about the eventual genetic identity of the child.

Going ahead with treatment

Surrogacy normally involves the intending woman (or her egg donor) going through a stimulated IVF cycle then having some eggs collected that are then fertilised by the sperm of her partner (or a sperm donor). The fertilised embryos that divide successfully are then frozen for later replacement.

The surrogate is only required to go through an embryo transfer into the uterus. This is a minor procedure, similar to a Pap smear.

Note that, due to the extreme psychosocial complexity and the higher medical risks of a twin pregnancy in the context of a surrogacy arrangement, we will only permit one embryo to be transferred in a surrogacy arrangement.

Full details of the IVF process are included in our information booklet and you should consult this booklet.

Treatment consultation

At this consultation you will see your overseeing Specialist with whom you can discuss any further issues which may have arisen either from reading the various information sheets or from discussions of your proposal with other professionals.

The details of your treatment regime will be established and a timetable planned.
Pregnancy counselling

Once a pregnancy is confirmed, close follow up will be undertaken by the Clinic Counsellor to ensure that all parties are comfortable with the plans which have previously been laid in relation to the care of this pregnancy both in terms of assessing fetal abnormality and such issues as the place and mode of delivery and the type of care to be provided during the pregnancy to the surrogate.

After the Birth of the baby

Under the NSW legislation, following the baby’s birth the intending parents and surrogate (and her partner) are required to have a further independent psychological assessment to submit to the courts to obtain a parentage order. Your lawyers will advise you on reports required for this process.

Costs of treatment

Although surrogacy arrangements are legal in NSW, Medicare does not allow the payment of Medicare benefits for IVF services carried out as a direct part of surrogacy. As a result surrogacy involves significant out-of-pocket expenses. These include:

- Consultations for both parties with IVFA Consultant from $180- $220 each
- Preliminary counselling for both parties from $150 each
- Blood Screening tests approximately $500
- Psychological assessment
- Obtaining Legal Advice for surrogacy arrangement and parentage order.

IVF Cycle

For stimulated cycles where there is a medical indication, Medicare rebates are payable.

Frozen Cycle

For the stimulation of the surrogate in preparation for the transfer of the embryo and the procedural fees for the transfer of the embryo. However, because there is no Medicare rebate for the surrogacy component of the treatment, it is much more expensive than usual.

Appendix A  |  Independent Lawyers

IVFAustralia has no connection with the lawyers below. We provide their names solely on the basis that our previous patients have used them and found them to be helpful.

Remember that the surrogate and the commissioning couple must obtain INDEPENDENT advice from DIFFERENT lawyers.

Andrea Wilson & Associates
Suite 99, Level 5
330 Wattle Street
Ultimo NSW 2007
T 9281 1036

Dimocks Family Lawyers
Level 1, 17 Castlereagh Street
Sydney NSW 2000
T 9221 8390

Sydun & Co Incorporating Oxford Law
L6, 162 Goulburn Street
East Sydney NSW 2010
T 9283 2355

Phang Legal Pty Ltd
6/83 George Street
Parramatta NSW 2124
T 9687 8885

Harrington Family Lawyers
Stephen Page
Level 12, 239 George St
Brisbane QLD 4001
T 07 3221 9544
spage@harringtonfamilylawyers.com
Provides phone and skype consults

Appendix B  |  Independent Psychologists

Miranda Montrone
Counselling place
25 Mansfield Street
Glebe NSW 2037
T/F 02 9518 8615
miranda@counsellingplace.com.au

Sue Hawkins
Unit 105/2 Albert Street
Randwick NSW 2031
T 0405 637 449
shawkpsy@gmail.com
IVFAustralia's Network of Care

**SYDNEY CLINICS**
- Level 1, 33 York St Sydney  [02] 8346 6800
- Level 2, 176 Pacific Hway Greenwich  [02] 9425 1600
- Level 2, 20-22 Mons Rd Westmead  [02] 8844 1550
- Level 1, 225 Maroubra Rd Maroubra  [02] 8372 3200
- Level 3 Suite 15  [02] 8567 6955
  - St George Private Hospital South St Kogarah

**Sydney Consultation & Monitoring Clinics**
- Bondi Junction  [02] 8305 9800
- Castle Hill  [02] 9894 4419
- Dee Why  [02] 9425 1600
- Liverpool  [02] 8844 1575
- Miranda  [02] 8567 6980

**Sydney Consulting Rooms**
- Bella Vista | Chatswood
- Haymarket | Newtown
- Randwick | St Leonards
- Wahroonga

**CENTRAL COAST CLINIC**
- Level 2 Suite 24
  - 207 North Albany St Gosford  [02] 4349 2000

**HunterIVF CLINIC**
- Part of IVFAustralia
- Suite 4
  - The Heights Private Medical Centre
  - 2 Lookout Rd
  - New Lambton Heights  [02] 4957 8515

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