

IVFAustralia
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A guide to preparing for

Surrogacy



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Surrogacy is an assisted reproductive treatment (ART) in which a woman (surrogate) carries a child in her uterus on behalf of another person. For some intending parents, using a surrogate is their only hope of having a child.

This booklet outlines IVFAustralia's surrogacy program, including the process, medical treatment, your legal rights and responsibilities, and the psychological and social implications. Your Fertility Specialist and IVFAustralia's Donor Team will be your main point of contact through this process and will provide information and guidance. We encourage you to contact the Donor Team at any stage by phoning 02 9425 1700 or emailing us at donorsupport@ivf.com.au

What is surrogacy?

The word 'surrogate' is derived from Latin and means 'elect as a substitute'. A surrogate or gestational carrier is a woman who carries a child with the intention of giving that child to the intending parent(s) when the child is born. This is normally achieved by creating embryos by IVF from eggs and sperm produced by either the intending parent/s or a suitable donor. The embryo created by the intending parents is then transferred into the uterus of the surrogate. At IVFAustralia, because of the risks involved, we do not offer "traditional" surrogacy, where the eggs of the surrogate are used in the conception of the child.

Surrogacy is legislated in NSW by the NSW Surrogacy Act 2010 and in ACT by the parentage Act 2004. In both pieces of legislation, the legal mother defined as the woman who gives birth to the child. The parties involved then apply for a parentage order to transfer the legal parentage to the intending parents. As a result, surrogacy can be legally complex.

There are also a number of rare but potentially serious 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.

At IVFAustralia, we consider it critical, at every step, to ensure the safety of a surrogacy arrangement for every participant involved. A key part of this is ensuring that all the participants, particularly the surrogate, look back on the decisions involved with pride and happiness. Our experience has been that the establishment of a trusting relationship between the surrogate and her intending parent/s is essential.

It is important to always remember that surrogacy is a serious undertaking and not one that should be gone into lightly. It is only useful in a very small number of cases and may not be the solution for every case of fertility problems.

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.

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 There must a clear indication for why surrogacy is necessary.

This could be one of the following:

- ◆ The intending mother may have a defined medical disorder that makes a pregnancy unsafe
- ◆ The intending parents may be a male couple in a same-sex relationship
- ◆ The intending mother may have a disorder of the uterus that makes successful implantation difficult or impossible
- ◆ The intending parents may have had many embryo transfers without success or have a history of recurrent pregnancy loss

Please note under the Parentage Act 2004, in the ACT, the intending parents need to be a couple, you cannot enter a surrogacy arrangement as a single parent.

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/son 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.

3 The surrogate must have an established relationship with the intending parents for a period of no less than six months by the time of the embryo transfer.



- 4 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 or impair the ability of the intending parents to care for the child.
- 5 The surrogate must not use her own eggs although a third party egg donor is permissible.
- 6 Surrogacy will not be provided in cases where the intending parent or parents has no biological connection with the child, i.e. where both the eggs and the sperm are donated by third parties

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 support us proceeding with surrogacy in your case.

Implications of surrogacy

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

Some intending parent/s may have 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 usually has no direct experience of infertility or assisted reproduction. As with all medical treatment, there are risks associated with 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 of the detailed implications of surrogacy. The consent process includes consultations with IVFAustralia team members, an external independent 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 further specialist/s such as an obstetrician or psychiatrist. There will be a substantial period of discussion and consideration before you commit yourself to proceed with the surrogacy treatment.

Important cautions

The use of a gestational surrogate (i.e. having a woman carry a baby through a pregnancy on behalf of an intending parent) 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, or for same sex couples where this is their only way to have a child.

As Medicare funding specifically does NOT allow any Medicare rebates for surrogacy, it is a very expensive process. 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 and the ACT is complex. IVFAustralia requires every individual considering participation in a surrogacy program to have obtained independent legal advice and have a written surrogacy arrangement in place before taking part.

Preparation for surrogacy

Intending parents visit Doctor	Takes medical history Checks that they satisfy ONE of eligibility criteria Can arrange storage of sperm or embryos in parallel
Surrogate sees Doctor	Takes medical history Checks that she satisfies ALL of eligibility criteria May seek initial advice from the Ethics Committee
Notification to IVFAustralia's Medical Director	Checks against eligibility criteria
Review by CD Committee	Decide whether additional expert reports are required
Independent obstetric assessment	If required
Independent psychiatric assessment	If required
IVFAustralia implications counselling	
External psychosocial assessment and counselling for surrogate	Written report prepared
Independent legal advice for both parties	
Review by Medical Director with guidance from the IVFAustralia Ethics Committee	
Surrogate completes blood tests	
Medical review & consent forms signed	
Treatment/transfer cycle	

Initial medical consultation

A full medical history will be taken from both the intending parent 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 surrogate.

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 complexities 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 completing the surrogacy. At that point, the intending parent/s will submit to further infection screening 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.



Initial review of the arrangement by IVFAustralia Medical Director

The case will be reviewed by the Medical Director at IVFAustralia at the earliest possible opportunity for guidance on whether the case meets the above eligibility criteria for surrogacy.

Where necessary, the Medical Director, in discussion with the relevant expert committee, will consider whether any 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 specialist assessment, however in a small number of cases, we will recommend further assessment which may include:

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). Donor and surrogacy arrangements are likely to require multiple counselling sessions. 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. We normally recommend that you do this at a very early stage in the process so that you have a full understanding of what lies ahead.

Psychosocial assessment and counselling

By law, the surrogate and the intending parents are required to have psychological assessment and implications counselling from an independent (IVFAustralia) ANZICA-accredited counsellor.

To assist you, we can provide you with an up to date list of independent counsellors' details. 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 the assessment provided.

As part of this process, the counsellor will be asked to provide a full 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 parent 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 of legal advice confirming that they have advised the parents of their rights and obligations and the implications for any child(ren) resulting from the surrogacy arrangement.

We do not need 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, we can provide you with an up to date list of independent solicitors. 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. We do recommend that you seek advice from a solicitor with past experience in this area.

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 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 Donor team 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 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 female parent or egg donor going through a stimulated IVF cycle then having some eggs collected that are then fertilised by the sperm of the intending father/s (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 at a time in a surrogacy arrangement.

Full details of the IVF process are included in our IVFAustralia booklet, *Pathway of Care* 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 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 IVFAustralia Consultant	from \$180 - \$220 each
Preliminary counselling for both parties	from \$170 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.



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