

Egg Donation and Gestational Surrogacy

By: Susan Cohen RN BSN
The Center for Egg Options, LLC

Infertility

- The result of a disease (an interruption, cessation, or disorder of body functions, systems or organs) of the male or female reproductive tract which prevents the conception of a child or the ability to carry a pregnancy to delivery. (ASRM)

Egg Donation

- An egg from a fertile woman that is donated to an infertile woman to be used in an assisted reproductive technology procedure such as IVF. The woman receiving the egg will not be biologically related to the child but will be the birth mother on record. (ASRM)

Gestational Carrier

- A woman who agrees to have a couple's fertilized egg (embryo) implanted in her uterus. The gestational carrier carries the pregnancy for the couple, who usually has to adopt the child. The carrier does not provide the egg and is therefore not biologically (genetically) related to the child. (ASRM)

Factors to Consider with Egg Donation

- Emotional
 - Desire to expand their family
 - Mourning loss of use of own eggs
 - Traits
 - Discussion with family and friends
 - Psychological Evaluation
 - Disclosure to child

Factors to Consider with Egg Donation

- Financial
 - Agency Fees: \$5000- \$8000
 - Donor Compensation: \$5000-\$10,000
 - Potential Additional Fees:
 - Legal Fees for Donor and Intended Parents
 - Insurance Coverage for Donor Complications
 - Psychological Screening for Donor
 - IVF/Medical Fees for Donor Cycle
 - Travel and Monitoring for Donor

Factors to Consider with Gestational Surrogacy

- Emotional
 - Known Medical Issues with Intended Parent
 - Repeat cycles of IVF/Egg Donor
 - “Last Resort” for child
 - Qualified GS Candidate-review of records, clearance letter, psychological evaluation, background check
- Financial
 - Agency Fees \$10,000-\$20,000
 - Gestational Surrogate Compensation \$15,000-\$50,000+
 - Legal Fees for Intended Parent \$1500-\$5000
 - Medical costs for IVF Cycle

Factors to Consider with Gestational Surrogacy

- Legal
 - Contracts with Agency and GS
 - Illinois Surrogacy Act
 - Pre-Birth Order
 - Adoptions Proceedings/Step-Parent Adoption
 - Back-up Plan if GS is Long Distance

Factors to Consider with Gestational Surrogacy

- Maternity Care Coverage
 - Review of Insurance Policy-exclusion?
 - Complication policy for \$8000
 - Comprehensive Coverage \$25-35,000
 - Negotiated Direct Pay to MD and Hospital
 - Life Insurance Coverage

Factors Related to Judaism to Consider

- Infertility has historically been a disease considered worthy of a cure.
- Currently, there is no uniform rabbinic agreement as to what is and is not permitted. Much depends on the rabbi, the couple and the therapy.
- Conservative and Reform Rabbis differ in opinion from the Orthodox point of view.

Views on Egg Donation

- Main issue debated is “Who is the Mother?”
- Orthodox
 - Gestational mother is usually considered the mother.
 - Recommend conversion of the child if the egg donor is not Jewish
 - If using an anonymous Jewish Donor, may raise the problem of marriage for the child by unknowingly marrying a family member.

- Conservative
 - Usually permissible.
 - Conversion of the child is usually recommended unless both the donor and recipient are both known to be Jewish.
 - In 1997, ruling which clarified the Conservative position. Gestational mother determines the religious status of the child.
- Reform
 - Jewishness of the child is not its genetic or gestational condition, but the way he or she is raised.
 - Considers a child to be Jewish if one of his/her parents is Jewish and both parent and child formally identify with Judaism.

Views on Gestational Surrogacy

- Newer technology-no Halachic consensus on this procedure
- Orthodox
 - Some rabbis may prohibit surrogacy due to issues of possible adultery with the sperm of the man being implanted into a woman that is not his wife.
 - Others are more lenient, since the Torah allows a man to have more than one wife.
 - Halachic requirements must be met.
 - GS must be single and unrelated to either spouse so there is no question of adultery or incest.

- Many rabbis agree that the surrogate mother determines the religious status of the child. The child will need to be converted if the surrogate is not Jewish.
- Very important to seek Rabbi's guidance.
- Conservative
 - Permit surrogacy, but if surrogate is not Jewish, the child must convert.
- Reform
 - Permissible, but may prefer that the genetic materials are those of the couple concerned rather than anonymously donated genetic material.

Available Options in Israel

- Israel has made infertility treatment widely accessible.
- National Insurance Law ensures that all types of reproductive technologies are fully paid for as part of standard insurance package.
- Includes unlimited rounds of IVF for up to two live births.
- GS arrangements have been legal since 1996 between Israeli citizens. Does not allow a foreign resident to contract with an Israeli surrogate.

- Israeli Surrogacy Law-very strict criteria that is overseen by a public committee.
 - All surrogates and Intended Parents must share the same religion.
 - Surrogate must be single, divorced or widowed.
 - Only legally paired man and woman can contract a GS. Does not provide for same sex couples or single parents.
 - GS cannot be related to either parent
 - GS cannot provide her own eggs
 - Intended father must be genetically related. No sperm donor.
 - Reserved as last resort to have children. Must have exhausted all other options for genetic parenthood.
 - Unknown fertility must do at least 8 attempts for IVF before qualifying for a GS.

- Legal status of surrogate births in Israel was clarified in 1996. Status of children born to surrogates overseas is unclear.
- Tel Aviv family court ruled in March 2012 that a woman that uses her own eggs and has a GS give birth overseas is the baby's legal mother. Must use DNA testing to prove genetic link.

Puah Institute

- Provides Halachic supervision of genetic materials.
- A child is considered to be the product of both his parents. When a child is conceived via fertility treatment, this assumption can be put into question.
- Halachic supervision provided. Cannot be husband or doctor, since they are not impartial and may have an emotional involvement.
- Independent supervisors can go into couple's own doctor's office.

- 80% of their clients are Orthodox.
- Provides guidance for treatment on Shabbat.
- Strongly advises couples not to disclose egg donation information to child or family members. Always recommends anonymous egg donation.
- An optimal donor is a single Jewish donor.
- 3 Opinions defining motherhood
 - Birth Mother-Child is Jewish regardless of donor's religion.
 - Donor-Child is Jewish only if donor is Jewish. Must be single since husband is fathering child.
 - Both: Only Jewish if birth mother and donor are Jewish.

Conclusions

- Decision process should include Rabbi
- Must consider all factors and then make an informed decision about religion of child and if need to convert.
- May not be possible to find a Jewish egg donor or gestational surrogate.
- Use support system in place.

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