



Health News

Wisconsin ruling prevents most insurers from denying benefits to surrogates

Firms can't exclude coverage based on circumstances of pregnancy

By [Gina Barton](#) of the Journal Sentinel
Aug. 4, 2012

Two Wisconsin surrogate mothers - with help from the state Commissioner of Insurance and state Supreme Court - have made Wisconsin the most surrogacy-friendly state in the nation when it comes to health insurance.

A 2010 Supreme Court ruling, handed down after the two women were denied benefits, makes it illegal for most health insurers to refuse to cover a surrogate's pregnancy. That means infertile couples who want to be parents can save thousands of dollars in medical costs by working with Wisconsin surrogates.

"The Supreme Court has said, essentially, that if you are an insurance policy governed by Wisconsin law and you provide maternity coverage, you can't exclude coverage for somebody based on the circumstances of conception," said attorney Lynn Bodi, who co-owns a surrogacy agency in Madison.

Attorneys around the country are very aware of the Wisconsin decision, the only one of its kind in the nation so far, Bodi said.

"They are interested in trying to use it to explain to their courts and legislatures that this makes sense," she said.

The case began after Janesville-based MercyCare Insurance Company and MercyCare HMO denied coverage to the two women. They had served as gestational surrogates, meaning they were not genetically related to the children they carried.

The first delivered a baby in 2003, incurring \$18,511 in medical bills. The second delivered twins in 2004. Her bills totaled \$16,745.

Their health plans said "surrogate mother services" were not covered.

The Wisconsin Commissioner of Insurance reviewed the situation after one of the women complained it was discriminatory to exclude her from coverage based on how conception occurred.

Jorge Gomez, then the state insurance commissioner, agreed, calling the decision to become pregnant "intensely personal."

"To give an insurer license to inquire into why a woman is pregnant or whether she intends to keep her baby would be improper," he wrote.

MercyCare challenged the decision and won in Circuit Court. Gomez's office appealed. Rather than issuing a decision, the state Court of Appeals sent the case to the Supreme Court, which ruled against MercyCare.

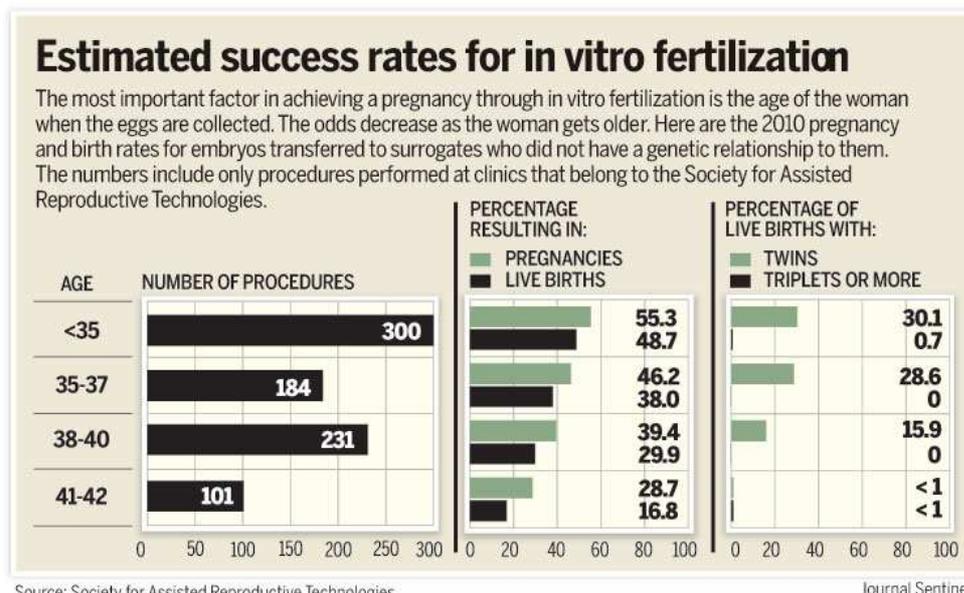
"An insurer may not make routine maternity services that are generally covered under the policy unavailable to a specific subgroup of insureds, surrogate mothers, based solely on the insured's reasons for becoming pregnant or the method used to achieve pregnancy," the decision says.

Some health plans, including those regulated by the federal government rather than by the state and those that are self-funded, are not covered by the ruling. It does not require insurers to cover reproductive technology, such as in vitro fertilization, only the costs of prenatal care and delivery.

Fears that the case would damage the industry have not materialized, according to Phil Dougherty, senior executive officer at the Wisconsin Association of Health Plans.

"It's not anything that has been on our radar screen," he said. "No one has raised that specific issue as an industry issue to be addressed."

IVF surrogacy success numbers :



Source: Society for Assisted Reproductive Technologies

Estimated cost and compensation :

Surrogacy: Cost and compensation

= Fees paid by intended parents

= Paid for benefit of surrogate mother

| Possible reimbursements/expenses | |
|--|---------------------------|
| ■ Total payments to surrogate – Single birth | \$18,000-\$22,000 |
| ■ Total payments to surrogate – Multiple birth <i>Payments for single and multiple births are made in monthly installments.</i> | \$23,000-\$26,000 |
| ■ Surrogate mother agency fees | \$11,400 - \$20,500 |
| ■ Reproductive law attorney's fees | \$2,200 - \$6,000 |
| ■ Drafting of contract | \$2,200 - \$3,500 |
| ■ Medical insurance review | \$500 - \$1,000 |
| ■ Court order for birth certificate | \$2,500- \$5,000 |
| ■ Escrow account management | \$500-\$1,750 |
| ■ Term life insurance | \$300-\$600 |
| ■ Maternity clothing | \$500/\$750 multiples |
| ■ Payment when embryos are transferred | \$500 |
| ■ Invasive procedure fee | \$500 - \$1,000 |
| ■ Payment if embryo transfer is canceled by the intended parents after the surrogate has gotten shots to prepare | \$350 |
| ■ Payment if a mock cycle to test the effectiveness of medication and suitability of uterine lining is required | \$500 |
| ■ Delivery via C-section (<i>when not planned prior to conception</i>) | \$1,500 |
| ■ Transportation allowance | Varies by location |
| ■ Child care when performing duties under the contract (<i>i.e. doctor visits</i>) | \$5-\$10 per hour |
| ■ Attorney's fee for surrogate's representation | \$500-\$1,500 |
| ■ Medical expenses for doctors visits, delivery, lab work etc. <i>(if not covered by surrogate's insurance**)</i> | Varies |
| ■ Home study evaluation | \$300-\$800 |
| ■ Psychological counseling | \$1,000-\$2,500 |
| ■ Criminal background check | \$200 per person |
| Other possible expenses | |
| ■ Health insurance for surrogate | \$0-\$30,000 |
| ■ Lost wages (if surrogate is employed and has no disability insurance) | Based on salary |
| ■ Husband's lost wages when attendance is required | Based on salary |
| ■ Housekeeping if surrogate is confined to bed during pregnancy | \$50 per week |
| ■ Child care if confined to bed during pregnancy | \$5-\$10 per hour |
| Estimated cost for intended parents | \$60,000-\$80,000* |

* Total expenses for a successful IVF pregnancy (not including medical costs for the IVF procedure and pregnancy)

** Medical expenses at the infertility clinic generally are not covered by the surrogate's insurance

Note: Prenatal and hospital charges may or may not be covered.

Interactive Map :

[Surrogacy laws by state](#)



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The long road leads the Kornsteins to an Oshkosh hospital.