



# Oregon Surrogacy Professionals Association

March 11, 2019

Chair Monnes-Anderson and Members of the Committee  
Via email to: [shc.exhibits@oregonlegislature.gov](mailto:shc.exhibits@oregonlegislature.gov)

RE: In Support of SB242 and Amendment -1

Dear Chair Monnes-Anderson and Members of the Committee;

We come to you on behalf of the Oregon Surrogacy Professionals Association (OSPA). We are a professional group comprised of Oregon medical professionals, mental health care professionals, attorneys and agencies that work with families created through surrogacy. We support SB242 and Amendment -1.

Every day we have the honor and pleasure of helping people grow their families through surrogacy. For every professional involved in this process, one of our greatest concerns is ensuring the healthiest possible outcome for surrogates, babies and the families we serve. Every year we face more limitations on providing safe, healthy and adequate healthcare options for surrogates and babies due to limitations on insurance coverage.

## **Background**

In Oregon, there are 4 categories of coverage for the cost of a surrogate's pregnancy and delivery care. Included with this letter is a document that explains the options available and the average cost of care with each plan option.

The most common option for surrogates is to get an Affordable Care Act (ACA) policy with no surrogacy exclusion purchased specifically for the surrogacy. The surrogate may have had to give up previous insurance to get coverage that includes the surrogate pregnancy and delivery costs. In Oregon, the cost for the ACA option is typically \$10,000 to \$12,000.

A small number of surrogates have a health insurance plan through hers or her spouse's employment. This is the least costly option at approximately \$5,000. Unfortunately, only about 12% of Oregon surrogates have this option.

Besides an ACA health insurance plan or an employment based plan, there are two other options for coverage. 1) There are costly specialized plans that are designed specifically for surrogacy. These may cost two to three times what a standard insurance option costs.

2) Intended parents and surrogates can go without any insurance. This option puts all parties at high financial risk but may be the only option available for some.

### **Limited Insurance Provider Options**

There are limited insurance provider options available that will cover surrogate pregnancy care and delivery. (We will limit this discussion to ACA based policies because they are the most frequent form of health insurance coverage for surrogates in Oregon.)

- In 2015, Oregon had at least five unique insurance provider options that covered surrogate pregnancy care and delivery costs.
- In 2016 that number dropped to three provider options.
- In 2017 we had two provider options.
- In 2018 we fell to one provider option.
- In 2019, we still have only one provider option.

We are unsure if that provider will continue to offer coverage in 2020. If they choose not to continue coverage, Oregon will have no insurance coverage for surrogates. With no insurance options, surrogates will be left without coverage in the middle of a pregnancy. Intended Parents will be responsible to pay the full cost for pregnancy care and delivery or purchase a specialty policy; both options may exceed two or three times what an ACA or employment based policy would cost.

These limited provider options have additional impacts on the lives of these women and their families. Because surrogates are limited to a small number of providers available through a single provider option, they experience longer waits, additional travel to get to clinics or hospitals, care that may not be a good match, and little to no choice about who provides their care.

This bill would create the opportunity for surrogates and the children they carry to experience the same benefits of care that every other pregnant woman has.

### **Effect of No Coverage**

If coverage of a surrogate's pregnancy and delivery care is not mandated, we may not have any insurance options available in Oregon for 2020. This has happened in other states. For example, Nevada has no private insurance options available for 2019. In 2018, there was one health insurance provider that offered policies that covered surrogacy. They discontinued that coverage in 2019.

This is important because it provides a chance to see what the consequences of losing insurance options will be.

- Intended parents and surrogates that had coverage when they got pregnant in or after April 2018 no longer had coverage beginning January of 2019. This leaves the most expensive part of their medical care uncovered by insurance.
- Those families are now in the position of having to negotiate cash pay rates for the pregnancy and delivery care.
- The number of surrogacies being completed in Nevada has not dropped. People are relying on cash pay or other expensive options for care. This is because there are many more families who need surrogacy assistance to create their family than there are surrogates and because Nevada has a favorable legal climate. In weighing the risks of an available surrogate in a good state vs the potential of high medical care costs, many intended parents see the risk as reasonable.
- It is too early to tell if the lack of coverage or the cost of care will impact the medical care. It is anticipated that this may create situations where the surrogate does not receive adequate medical care because the parties are concerned about the costs of care.

Without insurance coverage, intended parents are left unsure of their financial responsibilities and if they will be able to meet those obligations. Uninsured care could run into the hundreds of thousands of dollars if there are complications, or worse, the families and surrogates may have to make choices on whether to receive care *at all* because of the cost. This uncertainty causes stress and fear at the least, and potential financial disaster or death at the worst.

Despite the risks, people are still choosing to pursue surrogacy in Nevada. We don't want Oregon families to face these same difficult choices.

SB242 will create a safe system to ensure that health insurance coverage is available for all pregnant women and the children they carry by providing options for coverage throughout the entire surrogacy.

### **Intended Parents are at a Disadvantage**

Intended parents who choose to have their children through surrogacy do so because they have no other feasible or safe option. These parents enter the surrogacy relationship at great expense- not just financially, but also emotionally. It takes an enormous amount of strength, vulnerability and support to agree to have a surrogate carry their child.

With all the experience and control they must give up, it is unreasonable to also have them bear the financial burden of unfair access to health insurance options. Were they to be pregnant and carry their own child, they would have guaranteed coverage available.

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SBS242 will alleviate some of the unfairness and separation that intended parents experience by creating their family through surrogacy. Instead of insurance being one more different and difficult thing they have to navigate, insurance will be a familiar and equal experience. This may seem a small concern, but every act of normalcy for intended parents has a huge impact.

### **Inequity in Coverage**

Under the ACA, pregnancy and delivery care is one of the ten essential health benefits. By refusing to provide policies that will cover a surrogate's pregnancy and delivery care, we believe insurance companies are discriminating against a protected group. There is no other form of pregnancy and delivery care that can be excluded from health insurance policies. Regardless of how a woman becomes pregnant, pregnant women and the babies they carry deserve access to health insurance and medical care. SB242 and amendment-1 corrects this inequity in coverage.

### **Community Support**

Oregon is a leader in the national surrogacy community. We provide exceptional Assisted Reproductive Care options through our medical clinics. We have experienced and professional mental health care providers who prepare and ensure families and surrogates are healthy as they go through surrogacy. We have attorneys that set the bar for what exceptional and collaborative representation looks like, and who are regularly called by their trade organizations to educate what constitutes good legal representation. We have surrogacy agencies that are dedicated to the ethical and safe facilitation of surrogacy. Oregon is also the first state to create a multi-disciplinary professional association dedicated to continuing ethical and exceptional surrogacy in Oregon. In a state where the community is so dedicated to doing something right, insurance is the missing piece of the puzzle.

Senate Bill 242 and Amendment -1 provide the answer to one of the most challenging and risky aspects of surrogacy.

We urge you to vote in support of Senate Bill 242 to ensure that health insurance coverage is available to all surrogates and families through surrogacy. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to be 'Adrienne Black', with a long, sweeping underline.

Adrienne Black, Co-Chair on behalf of  
Oregon Surrogacy Professionals Association

## A Look at Surrogate Medical Insurance Options

This overview is meant to help you understand what forms of insurance may be available to you and your surrogate. This is for general education. Please consult with a surrogacy insurance specialist for detailed information about what is right for your surrogacy.

*Please Note: None of these options will cover newborns. Intended Parents are responsible for their child's medical expenses. Baby will not be added to Surrogate's insurance.*



heart to hands  
surrogacy

### Employment Based Health Insurance that covers surrogacy

(\$3k-\$10k)

The surrogate has insurance through her or her spouse's employment that will cover surrogacy. In this situation, the IPs usually only pay for the cost of care and not for the premium.

**PROS:** Stable, Lowest cost to IPs, Uses surrogate's established plan, Covers multiples pregnancy

**CONS:** Only about 10-15% of surrogate have this option, Limited providers/facilities, Employer will know about the surrogacy, Tied to employment, Changes could occur mid-year, Deductible and MOOP reset yearly

### Affordable Care Act/Obamacare Health Insurance that covers surrogacy (\$13k-\$25k)

This private insurance can be obtained only during Open Enrollment (Nov-Dec). IP are responsible for the cost of the monthly premiums, deductibles, co-insurance up to the maximum out of pocket amount per year.

**PROS:** Most common, Easy to get, Covers multiples

**CONS:** Unstable, Expensive, Changes every year, Limited enrollment period, Plans vary, Plans not consistent by location, Deductible and MOOP reset yearly, Premiums go up yearly

### 3rd Party Specialty Plan: Maternity Care Plan through ArtRisk. (\$28k singleton/\$43k twins)

A private maternity care plan that covers the cost of the surrogacy medical expenses. The full amount is deposited by transfer. If unused, a portion will be refunded.

**PROS:** Stable, Specific to surrogacy, Year round enrollment, Set fee, Can see any provider, Tied to the legal contract, Low risk to surrogate, Can be transferred to a new surrogate

**CONS:** Expensive, Only covers pregnancy related care, Does not cover high order multiples

### 3rd Party Specialty Plan: PregnancyCare through Prime Insurance. (\$14k-\$21k)

A private insurance plan written specifically for surrogacy. Fixed monthly premium with no deductible or maximum out of pocket.

**PROS:** Year Round Enrollment, Set fee, Low risk to surrogate, Full insurance-not just pregnancy, Will cover multiples if an embryo splits, Better provider network than ACA

**CONS:** Can not intend to have multiples, Expensive, New, Limited provider network, Not every agency has access to this plan

### Cash Pay (\$3k-\$100k+)

If no insurance is available in the surrogate's state, IP may choose to cash pay for care.

**PROS:** Available year round

**CONS:** Potential for unlimited costs, Very high risk for surrogate

## A Look at Surrogate Medical Insurance Options

	Employment Based Health Insurance	Affordable Care Act Health Insurance	3rd Party Specialty Plan: ArtRisk	3rd Party Specialty Plan: PregnancyCare	Cash Pay
<b>Cost Estimate for 12 months</b>	\$3k-\$8k	\$17,600 (1)	\$27,350 single \$43,350 twins	\$13,800 (3)	\$3k-\$100k+
<b>Cost Estimate for 18 months</b>	\$3k-\$10k	\$25,400 (2)	\$27,350 single \$43,350 twins	\$20,700	\$3k-\$100k+
<b>Covers Maternity Care</b>	✓	✓	✓	✓	✓
<b>Covers Non Maternity Care</b>	✓	✓	✗	✓	✗
<b>Tied to Open Enrollment</b>	✗	✓	✗	✗	✗
<b>Covers Multiples Pregnancy</b>	✓	✓	✓	Only if an embryo splits	✓
<b>Choice of Medical Providers</b>	limited	limited	✓	limited	✓
<b>Choice of Hospitals</b>	limited	limited	✓	limited	✓
<b>May have an Exclusion</b>	✓	✓	✗	✗	✗
<b>Policy May Change at Calendar Year</b>	✓	✓	✗	✗	✗
<b>Available in every state</b>	✓	✗	✓	✓	✓
<b>IPs pay for premiums + other insurance costs</b>	✗	✓	✓	✓	✓
<b>Level of Risk</b>	low-med	med-high	low	low	high
<b>Availability</b>	low	high	high	medium	high
<b>Covers Cycling Expense</b>	✗	✗	✗	✗	✓

(1) Based on a generalized monthly premium of \$800 and meeting a Maximum Out of Pocket of \$8k

(2) Based on a generalized monthly premium of \$800, a co-payment of \$3k, and meeting a Maximum Out of Pocket of \$8k

(3) PregnancyCare is a flat rate of \$1150 per month through 3 months post-partum.