

Surrogacy and Health Insurance

A Practical Guide for Intended Parents and Gestational Carriers

Health insurance is one of the most important financial and risk-management issues in a surrogacy journey. It affects the intended parents' budget, the gestational carrier's protection, the timing of embryo transfer, and the way medical expenses are handled before, during, and after pregnancy.

In a surrogacy arrangement, the intended parents are typically responsible for medical expenses related to the surrogate pregnancy that are not paid by insurance. That includes premiums, deductibles, copays, coinsurance, uncovered medical expenses, and sometimes additional policies needed to protect the journey.

This guide focuses only on health insurance for the gestational carrier. Other insurance products, such as life insurance, newborn insurance, miscarriage coverage, failed transfer coverage, or other specialized policies, should be reviewed separately.

1. Why Health Insurance Matters in Surrogacy

A gestational carrier may already have health insurance, but that does not mean the policy can automatically be used for a surrogacy pregnancy.

Some policies cover ordinary maternity care but exclude surrogacy. Others are silent or unclear. Some contain lien, reimbursement, or subrogation language that could create financial exposure for the intended parents. Some employer plans can change during the journey. Some policies may initially pay claims and later reverse or deny them.

For that reason, health insurance should be reviewed before contracts are signed and before medications begin. In fact, understanding the insurance situation while considering a match with a surrogate candidate is wise, particularly when cost concerns are at issue. Depending on the situation, insurance plans can cost upwards of \$32,000.

The purpose of the review is to answer practical questions:

- Does the surrogate have current health insurance?
- Does the policy cover maternity care?
- Does it exclude surrogacy?
- Is it fully insured, self-funded, ACA, Medicaid, military, private, short-term, or employer-sponsored?
- Are there lien or reimbursement provisions?
- What are the deductible and out-of-pocket maximum?
- Is separate maternity coverage needed?
- Is backup or contingent coverage recommended?
- Does the transfer timing create a coverage gap?

A policy review is not a guarantee that every claim will be paid. It is a risk-management step designed to identify obvious exclusions, timing problems, and areas where additional protection may be needed.

2. Start With the Surrogate's Existing Health Insurance

The first question is whether the gestational carrier already has health insurance.

If she does, the policy should be reviewed by someone experienced in surrogacy insurance. It is not enough to look at the insurance card or confirm that the policy includes maternity benefits. The actual policy language matters.

A review should look for:

- Surrogacy exclusions
- Maternity exclusions
- Pre-existing condition language
- Lien or reimbursement provisions
- Subrogation provisions
- Coordination of benefits issues
- Whether the plan is fully insured or self-funded
- Whether the policy is employer-sponsored, ACA, Medicaid, military, private, or short-term
- Whether claims could be denied or reversed after pregnancy begins

A surrogate's health insurance should never be assumed to cover a surrogacy pregnancy simply because it includes maternity benefits. The actual policy must be reviewed for surrogacy exclusions, reimbursement language, lien rights, coordination issues, and any terms that could affect coverage for prenatal care, delivery, or complications.

3. Pregnancy Coverage Does Not Always Mean Surrogacy Coverage

Many major medical policies are required to cover pregnancy-related care, but that does not end the analysis in surrogacy.

Some, and often very few, Affordable Care Act Marketplace plans cover pregnancy and childbirth, and Open Enrollment for Marketplace coverage typically runs from November 1 through January 15, with January 1 coverage available when enrollment is completed by the applicable December deadline and the first premium is paid. Some state marketplaces may use different or extended deadlines, so the gestational carrier's state must be checked.

However, a legal requirement to cover pregnancy does not always mean a policy will safely cover a surrogacy pregnancy without issue.

There are several reasons:

- A policy may cover pregnancy generally but exclude surrogacy.
- A self-funded employer plan may not be subject to state insurance mandates.
- A policy may contain lien or reimbursement language.
- A plan may pay claims initially and later deny or reprocess them.
- The newborn's coverage is separate from the surrogate's maternity coverage.
- Short-term/catastrophic coverage policies do not have the same protections as ACA-compliant major medical plans.

Pregnancy coverage and surrogacy coverage are not always the same thing. A policy may cover ordinary maternity care but still contain surrogacy-specific exclusions, reimbursement rights, or other provisions that create risk for intended parents. For that reason, the actual policy must be reviewed before the parties rely on it.

4. Common Outcomes After the Insurance Review

After the review, the surrogate's health insurance usually falls into one of several categories.

The policy appears usable

This is the best-case scenario. The policy does not appear to exclude surrogacy, and the maternity claims may be submitted through the gestational carrier's existing plan.

Even then, intended parents should expect to pay deductibles, copays, coinsurance, out-of-pocket maximums, and any uncovered expenses related to the pregnancy.

The policy has a surrogacy exclusion

If the policy excludes surrogacy, intended parents generally should not rely on it for the surrogate pregnancy. Instead, the insurance strategy should move to one of the other specific options addressed in this guide.

Depending on timing, availability, and the facts of the journey, those options may include:

- An ACA policy, if the gestational carrier can enroll during Open Enrollment or qualifies for a Special Enrollment Period.
- Short Term Insurance as a bridge to ACA, if the transfer timing allows temporary protection before ACA coverage begins and the product is available in the gestational carrier's state. Typically, this means an embryo transfer starting in October.
- IVF Recipient Complications Insurance, if coverage is needed for IVF-related complications during the medication and embryo transfer period.
- A surrogacy-specific maternity policy, including a Lloyd's of London-underwritten policy, if ACA coverage is unavailable, unsuitable, or cannot be obtained in time.
- Backup or contingent maternity insurance, if another primary policy appears usable but there is concern about later claim denial. This option is generally less relevant when the policy has a clear surrogacy exclusion, but it should be understood separately.

If the gestational carrier's policy contains a surrogacy exclusion, intended parents generally need a different insurance strategy. The next step is to evaluate the specific alternatives addressed in this guide: ACA coverage, Short Term Insurance as a bridge to ACA, IVF Recipient Complications Insurance, a surrogacy-specific maternity policy, or, in some cases, backup or contingent maternity coverage. The correct option depends on the medication start date, transfer timing, ACA enrollment availability, state availability of short-term coverage, and the level of risk the intended parents are trying to address.

The policy is unclear or ambiguous

This is common. The policy may not clearly say whether surrogacy is covered or excluded. In that case, intended parents need to decide whether the risk is acceptable or whether backup coverage or another policy should be considered.

The surrogate has no usable insurance

If the surrogate has no insurance, or her policy cannot be used, intended parents may need to explore ACA coverage, a surrogacy-specific maternity policy, Short Term Insurance as a bridge to ACA, IVF Recipient Complications Insurance, or other options discussed in this guide depending on the timing and risk profile of the journey.

5. ACA Policies in Surrogacy

ACA policies can be useful in surrogacy, but timing is critical.

For most states using the federal Marketplace, Open Enrollment runs from November 1 through January 15. Enrollment by the applicable December deadline generally allows coverage to begin January 1, while enrollment by January 15 generally allows coverage to begin February 1. State-based marketplaces may have different deadlines.

This matters because intended parents usually cannot simply purchase an ACA policy for the gestational carrier at any time of year.

If the surrogate's current insurance cannot be used and Open Enrollment has passed, the parties must determine whether she qualifies for a Special Enrollment Period or whether another insurance strategy is needed.

ACA coverage can be an important tool in surrogacy, but it is tied to enrollment rules. Intended parents should not assume that an ACA policy can be purchased at any point in the journey. Open Enrollment, state marketplace deadlines, coverage start dates, deductibles, out-of-pocket limits, provider networks, and surrogacy language all need to be reviewed before contracts are signed.

6. Special Enrollment Periods

A Special Enrollment Period allows someone to enroll in or change Marketplace coverage outside the yearly Open Enrollment Period because of certain qualifying life events.

Qualifying life events may include changes such as losing health coverage, getting married, having a baby, adopting a child, moving, or other significant household or residence changes. Depending on the type of Special Enrollment Period, the person usually has a limited window to enroll, and documentation may be required before coverage can begin.

For surrogacy, the key point is this: becoming a gestational carrier, preparing for embryo transfer, or needing maternity coverage does not automatically create a Special Enrollment Period. Further, there is a deadline of 60 days from the time of the qualifying event to enroll in an ACA policy.

If the gestational carrier is outside Open Enrollment, the parties should not assume an ACA policy is available. A broker should determine whether she has a qualifying life event that creates a Special Enrollment Period. If not, the intended parents may need to consider a different insurance strategy until the next ACA plan year begins.

7. Why Transfer Timing Matters

Insurance planning is calendar-driven.

A January or February transfer may be easier to coordinate with ACA coverage because the policy can already be active at the beginning of the year. A late-summer or fall transfer can create a more complicated situation.

For example, if the gestational carrier starts medications in August or September, but the intended strategy is ACA coverage effective January 1, there may be a gap between the transfer cycle and the ACA effective date.

That gap matters because the gestational carrier may already be receiving medications, undergoing transfer, becoming pregnant, and beginning prenatal care before ACA coverage begins.

The timing of medications and embryo transfer can affect the insurance strategy. If the intended plan is ACA coverage effective January 1, but medications or transfer will begin before then, the parties should ask whether temporary protection is needed before the ACA policy becomes active.

8. Donor / Recipient Complication Insurance

Donor/recipient complication insurance is important because it addresses a different risk than maternity insurance.

In a surrogacy journey, the “recipient” may refer to the person receiving medications and undergoing embryo transfer - the gestational carrier. This type of insurance may cover certain complications related to the IVF process, including the medication and transfer period.

IVF Recipient Complications Insurance covers complications due to IVF from medication start date until heartbeat confirmation of pregnancy. Depending on timing, this may make more sense than Short Term Insurance because Short Term Insurance covers complications after confirmed pregnancy and does not cover IVF-related complications.

IVF Recipient Complications Insurance may be used to address certain risks during the IVF medication and embryo transfer period. This is different from maternity insurance and different from Short Term Insurance. It may be especially important when the gestational carrier starts medications before ACA coverage or another maternity policy is active.

This distinction is important:

- IVF Recipient Complications Insurance may cover IVF-related complications before heartbeat confirmation.
- Short Term Insurance may cover catastrophic pregnancy-related complications after pregnancy is confirmed.
- ACA coverage may be the preferred policy for routine prenatal care and delivery once effective.

9. Short-Term Insurance as a Bridge to ACA

Short Term Insurance may sometimes be used as temporary bridge coverage before an ACA policy becomes effective. It should not be confused with full maternity coverage.

Short Term Insurance is a temporary policy until ACA Open Enrollment, with availability and duration depending on the gestational carrier's state and ZIP code. It must be applied for before medications begin, or pregnancy could be listed as an exclusion. Short Term Insurance will only cover catastrophic events and does not cover routine maternity care or pre-existing conditions. It is not used for delivery.

Short Term Insurance may sometimes be used as a temporary bridge before ACA coverage begins, but it is not full maternity coverage. It may protect against certain catastrophic pregnancy-related events during a limited window, but it should not be relied upon for routine prenatal care, IVF-related complications, pre-existing conditions, or delivery.

10. The September 2024 Federal Rule Change for Short-Term Plans

The short-term insurance rules changed in 2024. Federal rules amended the definition of short-term limited-duration insurance to limit the initial contract term to no more than three months, with a maximum coverage period of no more than four months, including renewals or extensions.

This change matters in surrogacy. Although the federal rule may allow a fourth month through renewal, Important to note that renewal may not be available once the gestational carrier has started medications or is pregnant. Therefore, short-term insurance policy strategy should plan for a maximum three month coverage therefore treating the policy as practically providing about three months of usable coverage.

Because Short Term Insurance must generally be placed before medications begin, and because renewal may not be available once the surrogate has started medications or is pregnant, intended parents should not assume they will have four full months of usable coverage. In many surrogacy situations, the practical bridge period may be closer to three months.

11. The October Medication Start Rule of Thumb

If the goal is ACA coverage effective January 1, the medication start date becomes a key insurance planning date.

If the medication start date is in October and Short Term Insurance is placed in October, there may be no gap before the ACA effective date. But if medications start before October, the Short Term Insurance would need to begin earlier and may expire before ACA coverage begins.

When the intended plan is ACA coverage effective January 1, medications generally should not start before October if the parties are relying on Short Term Insurance to avoid a gap. If medications begin earlier, the short-term policy may expire before January 1, leaving a gap before the ACA policy becomes active.

This is not a universal rule because state availability, carrier rules, and policy terms can change. But it is a useful planning concept.

12. Cash-Pay Prenatal Care Before ACA Begins

Short Term Insurance does not generally cover routine prenatal care.

If the gestational carrier becomes pregnant before the ACA policy becomes effective, intended parents may need to pay routine OB/GYN visits directly until ACA coverage begins.

Cash-pay OB/GYN visits and premiums could range roughly from \$1,000 to \$8,000, depending on how long the policy needs to remain active and the type of care received.

Intended parents should understand that temporary bridge coverage will not pay for routine prenatal care. If the gestational carrier is pregnant before ACA coverage begins, routine OB/GYN visits may need to be handled on a cash-pay basis until the ACA policy becomes effective. These routine costs are usually much smaller than the financial exposure from a serious complication, but they should still be budgeted.

13. State Availability of Short-Term Insurance

Short Term Insurance is not available in every state.

At this time short Term Insurance coverage is not available for California, Colorado, Connecticut, D.C., Massachusetts, Maine, New Jersey, New Mexico, New York, Rhode Island, and Vermont.

Because state rules and carrier availability can change, the guide should not treat any state list as permanent and queries should be made during the matching phase of the surrogacy arrangement.

Short Term Insurance availability varies by state and ZIP code, and some states do not permit or offer this type of coverage. A broker should confirm current availability before intended parents rely on this option.

14. Surrogacy-Specific Maternity Insurance

When the surrogate's existing insurance cannot be used, and ACA coverage is unavailable or not suitable, intended parents may need to consider a surrogacy-specific maternity policy.

These policies are designed for surrogacy maternity risk and may be available through specialized ART insurance brokers. Some policies in this category are underwritten through Lloyd's of London programs or other specialized markets.

This option may be considered when:

- The surrogate has no health insurance.
- Her policy excludes surrogacy.
- Her policy language is too risky or unclear.
- ACA coverage cannot be obtained in time.

- Short Term Insurance is unavailable or insufficient.
- The intended parents want a policy designed specifically for surrogacy maternity care.

These policies can be very expensive (approximately \$32,000). They may also include deductibles, self-funded retentions, network requirements, coinsurance, exclusions, or policy limits.

A surrogacy-specific maternity policy may be an option when the gestational carrier’s existing insurance is unavailable, excluded, or too risky, or when ACA coverage cannot be obtained in time. These policies are often expensive, but they can provide an important solution when ordinary insurance routes do not adequately protect the journey.

15. Backup or Contingent Surrogate Maternity Insurance

Backup or contingent insurance is different from primary maternity insurance.

It may be used when the gestational carrier has a primary health insurance policy that appears usable, but intended parents want additional protection in case the primary insurer later denies maternity claims.

This can happen even when a policy initially appears surrogacy-friendly. A carrier may later deny claims, reverse claims, assert a reimbursement right, or take the position that the pregnancy was not covered.

Backup or contingent surrogate maternity insurance may be considered when the gestational carrier’s existing health insurance appears usable, but the intended parents want added protection if the primary insurer later denies maternity claims. This type of policy generally sits behind the surrogate’s primary health insurance and may be activated if the primary policy does not cover the surrogate’s maternity care.

This product should not be confused with bridge coverage.

- Backup or contingent coverage addresses the risk that a primary policy denies claims.
- Short Term Insurance addresses a temporary gap before ACA begins.
- IVF Recipient Complication Insurance addresses IVF-related complications during medications and transfer.
- Surrogacy-specific maternity insurance may serve as the primary maternity policy when other coverage is unavailable.

16. Comparing the Main Health Insurance Options

Option	What it may help with	What it does not solve
Surrogate’s existing insurance	May cover prenatal care and delivery if policy is usable	May contain surrogacy exclusions, lien language, or claim denial risk
ACA policy	May provide major medical maternity coverage once active	Usually only available during Open Enrollment or Special Enrollment
IVF Recipient Complications Insurance	IVF medication and transfer-related complications	Routine prenatal care, delivery, full maternity coverage
Short Term Insurance	Catastrophic pregnancy-related complications before ACA begins	Routine maternity care, IVF complications, pre-existing conditions, delivery

Surrogacy-specific maternity policy	Dedicated maternity coverage when other options do not work	Often expensive; must be reviewed carefully
Backup / contingent policy	Protection if primary insurance denies maternity claims	Not the same as primary coverage or bridge coverage

17. Questions Intended Parents Should Ask

- Has the surrogate's actual policy been reviewed?
- Does the policy contain a surrogacy exclusion?
- Is the policy fully insured or self-funded?
- Are there lien, reimbursement, or subrogation provisions?
- What are the deductible and out-of-pocket maximum?
- Can ACA coverage be obtained?
- Is the surrogate inside Open Enrollment or eligible for a Special Enrollment Period?
- When would ACA coverage begin?
- When will medications start?
- When is embryo transfer expected?
- Will there be a gap before ACA coverage begins?
- Is IVF Recipient Complications Insurance recommended?
- Is Short Term Insurance available in the surrogate's state?
- Would Short Term Insurance last until ACA begins?
- Will routine prenatal care need to be paid in cash before ACA begins?
- Is a surrogacy-specific maternity policy necessary?
- Should backup or contingent coverage be considered?
- Who will monitor premiums and claims?
- What happens if claims are denied or reversed?

18. Questions Gestational Carriers Should Ask

A gestational carrier should understand:

- Whether her existing policy will be used
- Whether her policy has been reviewed
- Whether intended parents will pay all pregnancy-related medical expenses
- Whether she will need to apply for ACA or another policy
- Whether premiums will be paid by intended parents
- Whether she should send all bills and insurance notices to the agency or broker
- Whether routine care before ACA begins will be handled as cash pay
- Who to contact if she receives a bill
- Whether any coverage could affect her benefits, subsidies, or household coverage

A gestational carrier should not be expected to absorb medical bills from a pregnancy she is carrying for someone else. Clear insurance planning protects both the surrogate and the intended parents.

19. When the Insurance Strategy Should Be Finalized

The insurance strategy should be reviewed before:

- The match is finalized

This guide should not be considered legal, insurance, or tax advice but an overview of the issue.

- The legal agreement is signed
- The surrogate starts medications
- Embryo transfer is scheduled
- ACA Open Enrollment deadlines pass
- Any temporary or short-term policy deadline passes

The contract should identify who is responsible for premiums, deductibles, copays, coinsurance, uncovered medical bills, cash-pay prenatal care, additional policies, and expenses caused by claim denials.

Insurance and contract drafting go hand in hand. The legal agreement should reflect the insurance plan for the journey and clearly state which expenses the intended parents are responsible for paying.

20. The Bottom Line

Health insurance in surrogacy is not one-size-fits-all.

A surrogate's existing policy may be usable, but it must be reviewed. ACA coverage may be a strong option, but it depends on enrollment timing. Special Enrollment Periods are limited and require qualifying life events. Late-year transfers may require bridge planning. IVF Recipient Complications Insurance may be needed for the medication and transfer period. Short Term Insurance may provide limited protection for catastrophic pregnancy-related complications before ACA begins, but it does not cover routine prenatal care or delivery. Surrogacy-specific maternity policies may be available, but they can be expensive. Backup insurance may be useful if the primary policy appears usable but still carries denial risk.

The best time to address these issues is before contracts are signed and before medications begin.

At Advocates for Surrogacy, we believe insurance should be reviewed early and carefully. Proper planning helps intended parents understand the true financial risk of the journey and helps ensure the gestational carrier is protected from medical bills connected to a pregnancy she is carrying for someone else.

Source and Review Notes

This guide is a practical educational draft. It should be reviewed against current policy documents and current insurance broker guidance before publication. Insurance availability, policy terms, enrollment periods, state rules, premiums, exclusions, and underwriting guidelines can change.

- ACA/Open Enrollment information should be checked against Healthcare.gov and the applicable state Marketplace before publication.
- Short Term Insurance and IVF Recipient Complications Insurance discussion is based in part on ART Risk correspondence dated September 2024 provided by Advocates for Surrogacy.
- Short-term plan federal rule discussion should be checked against current federal guidance before publication.
- The discussion of surrogacy-specific maternity policies and backup/contingent coverage should be confirmed against the current broker quote and policy documents before intended parents rely on it.