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A nine-month partnership

In this second of a two-part series on the business of babies, Sarah Treleaven looks at the prohibitive costs of surrogacy.

Financial Post

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Peter Redman, National Post

After being told a medical condition prevented her from having more children, Alison Beder Solway and her husband partnered with a "carrier" in the United States. The Solways paid hundreds of thousands ...

Alison Beder Solway suffered congestive heart failure in her eighth month of pregnancy and went into premature labour. Luckily, her daughter was born healthy. But then came the devastating news: A genetic heart condition prohibited her from carrying more children. Ms. Solway's dreams of a big, happy family began to slip away.

Ms. Solway and her husband, Kenny Solway, took desperate measures. The Toronto couple raided their nest egg and paid hundreds of thousands of dollars for surrogacy as an alternative method for having more genetic children. "We're still feeling the effects," says Ms. Solway. Their costly venture resulted in three sons from a "carrier" in the United States, including a set of twins.

Canadian couples with fertility or health issues who want their own genetic child have limited options. The 2004 Assisted Human Reproduction Act outlawed commercial surrogacy in Canada, prompted by concerns about "trade in the reproductive capabilities of women." But while the Act clearly prohibits compensation to carriers, "who most commonly use a fertilized embryo from the prospective parents," there

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have been no specific regulations forthcoming to outline how medical and other pregnancy-related expenses can be reimbursed.

Couples can try to enlist a family member, friend or stranger to carry their baby for purely altruistic reasons. They can offer illicit compensation and cross their fingers that they don't end up in jail or with a \$500,000 fine. Or they can leave the country, usually going to the United States, and try their luck with an expensive commercial system.

That is what the Solways were eventually forced to do, but not before they spent between \$75,000 and \$150,000 on surrogacy-related fees and treatments in Canada. Over a three-year period, they underwent seven in-vitro fertilization (IVF) cycles and implantations with two surrogates, none of which resulted in a viable pregnancy. Their costs were only beginning.

The financial burden for some families can be overwhelming. Couples rely on life savings, loans and donations from family and friends. Even when carriers are not compensated, there can be significant expenses related to IVF, pregnancy and delivery, particularly if there are complications. The law stipulates that direct medical expenses can be reimbursed, so if a doctor orders months of bed rest for a carrier with a complication, the prospective parents could wind up paying for lost wages.

Sherry Levitan is a Toronto lawyer who has been working on surrogacy-related files since 1996. She says before the 2004 Act, surrogacy was well run and self-regulated by the small number of professionals in the field. She says trying to work within the current legislation is like walking through a fog.

"I want to see some reality in the law," Ms. Levitan says. "One of the [reimbursable expenses] is that

if the surrogate needed to go to a doctor's appointment, you could reimburse her mileage. So, what if she needs to go to a counsellor's appointment or she needs to see her lawyer or she needs to buy organic food because that's what the couple has asked her to eat? The categories and the examples they gave were so restrictive, it was as if it had been written by men who had never even been pregnant."

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