

DIFFERENTIAL PAYMENTS TO EGG DONORS

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PROFESSOR STEINBOCK:

So I am going to do this old school, now—can we get rid of this? Just shut it off . . . Since I figure you can pay attention for 15 minutes without slides. There we go.

And it is very interesting, the three of us did not talk before, but there are lots of overlapping themes, which is going to be fun for the discussion period.

I am going to be talking to you today about the question, is there something ethically wrong with paying more money to egg donors with desired traits?

I really do not have very much to say about how the law should treat this or how it should be regulated, but we could do that in the discussion as well.

I am going to start by assuming that gamete donation is morally permissible, sperm and egg. Not everybody agrees with this and we could talk about that too if you would like. But if any donation is permissible then you have to pay donors, because if you think that getting rid of anonymity drives down donation, not paying for eggs almost completely ends it. Very few women are willing to donate eggs to strangers without compensation.

So that is the pragmatic consideration. Non-payment results in medical tourism, that is, women in need of eggs just leave and go elsewhere.

There is also an argument from fairness for paying egg donors. In light of the sacrifices of time, risk and burden that egg donors, make it seems only fair that they should receive enough money to make the sacrifice worthwhile. Everyone else involved in reproductive medicine gets paid. The doctors get paid. The nurses get paid. The lawyers get paid. The receptionist gets paid.

It seems a little unfair to say that only the woman who is providing the eggs should be a volunteer.

So I also think then that to say that there should be no financial compensation can actually be seen as a form of exploitation.

At the same time and on the other hand it could be argued that offering women too much money could also be seen as a form of exploitation, because it can be seen as an attempt to manipulate women into becoming donors without thinking seriously enough about the burdens and risks of egg donation.

The lure of financial gain may lead young women to discount the risks to themselves and to make decisions they will later regret. So that is also a kind of exploitation.

So if there is a risk of exploiting women by giving them too little money or by giving them too much money, what is reasonable compensation? The guidelines of the ASRM ethics committee state that amounts of above \$5,000 per cycle need to be justified and sums above \$10,000 go beyond what is appropriate.

By and large most programs seem to fall within these parameters. However, there was a recent study of advertisements for egg donors in newspapers which found deviation from the ASRM guidelines with much higher prices being offered to "special donors," that is, women with high SAT scores, musical talent, special athletic ability or from particular ethnic backgrounds or with particular physical characteristics such as height. And for those special donors, ads promising as much as \$100,000 have appeared in college newspapers.

Now, to be sure, the existence of an advertisement does not mean the money was actually paid. Some fertility doctors suspect that these ads are a bait and switch: the co-ed from Princeton that plays the violin and has a high SATs calls the fertility clinic saying I would like that \$50,000, and they go, oh, you just missed that offer, but we can put you on our donor list for \$5,000; is that all right?

Aaron Levine who authored the study that was in the *Hastings Center Report* admits that follow-up studies of egg donors do not reveal that they actually received high levels of compensation, which sort of supports the bait and switch theory.

However, there have been a few documentations of payments of up to \$50,000. Levine says that even if such amounts represent the fringes of the market for oocyte donation and occur only

infrequently, they remain ethically problematic.

Well, let's look at this a little more closely. What's ethically problematic about giving higher money—more money to a woman with special characteristics? There are several concerns.

First, that the people who place these ads want and are willing to pay large sums of money to get a “superior child” seems inconsistent with an ideal of unconditional parental love and acceptance. Parents, we think, are supposed to love their children just because they are their children and not because they have certain traits. And sometimes this is expressed by saying parents are not supposed to try to design their children.

Incidentally, sperm donors never get offered that kind money. I think it is because sperm doesn't really contribute to the traits of children? Perhaps that is it.

Okay. Now, can you design your children through obtaining eggs from superior donors? A little bit you can, but I want to point out that some of the things that people have said can be done are just fantasies.

For example, in March 2009 Dr. Jeff Bernstein, director of the Fertility Institutes in Los Angeles offered prospective parents the opportunity to select their future offspring's, hair, eye and skin color by genetically testing embryos. This was supposed to begin in 2009.

Although the original story did not say what they were going to do after they tested the embryos, it was clear that it was going to be embryo selection and discard. In other words, he was claiming to be able to identify by embryo testing that the child would have blond hair or blue eyes or whatever.

Then there was a terrific outcry and he said no, no, no, I am not going to do it, and he posted a statement on his clinic's website saying that negative societal implications might outweigh the positive aspects of parental choice.

Fertility experts were quick to point out that no one can do what he said that he could. They have no idea what genes are going to result in hair color, skin color and eye color. And one statement from the Center for Human Reproduction said, the truth is that we cannot yet reliably test embryos for eye color, hair color, skin tones and other cosmetic features. It will still take years before all of this will become technically even feasible. So I think a hefty dose of salt is important.

Now, it is important to realize this, not only to protect consumers from scam artists, like Dr. Steinberg, but also because

if people think they can design a baby, they cannot really do it, and have spent a lot of money to get a super-intelligent child or one with superb athletic or musical talent, they are likely to be bitterly disappointed, and that is another consideration when thinking about the welfare of the child. There are other reasons to be extremely cautious about thinking that it is impossible to “design” a child. One reason is that an egg donor provides only half of the genes. The other half come from the sperm donor, and the child might resemble the genetic father, not the genetic mother. There have been lots and lots of cartoons illustrating this possibility. Another reason for caution is that the environment is at least as important to the child’s traits as his or her genes. I had a great cartoon showing this, which I would have brought to you if I could have found it. It showed a homely looking woman with stringy hair and buck teeth and flat-chested, who goes through various procedures in each frame. She gets her teeth fixed, gets her breasts enlarged, gets her hair all pretty, becomes a model, and the parents are running after her saying we’ll give you \$50,000 for your eggs.

Okay. Well, anyway. So let’s remember that. But it is also possible that the people who put the ads seeking special donors in the newspapers are not idiots. It is possible that they understand the enormous complexity of the relationship that genes have between traits, that any trait we might be interested in is probably not going to be a single gene, but lots of genes that have to interact together, and all of them interacting with the environment so that you cannot say, ooh, I want this trait and have a realistic expectation of getting it.

So it may be that what they say is, we understand this, but what we also understand that there is a genetic component to many traits and we would like to give our child a genetic edge, right? The best chance that he or she can have.

Some people by the way say instead that what they’re trying to do is get someone like, as one man put it, well, we are trying to get eggs that would be like my wife if she only had her own eggs and she is smart and she is athletic, so why would not we want eggs from someone like her?

But there are other people who may say I wish I was smart and athletic so it would be nice to be able to give these gifts to my child. Such people would not be saying that they can not love a child who is short and unathletic, or that that they can only love a tall, brilliant, athletic child, but they are well aware of how

advantageous such traits are in society. And they would say, if it is okay for us to use the money that we have on summer camp and soccer and SAT tutors and piano lessons, why is not it okay for us to use it this way? Why is one consistent with an ideal of parenting and not another?

A related concern is that the ability to design offspring or even just to give one's children a genetic edge might widen the gap between the have's and have not's. This is called the justice argument. I don't think it's a very good argument when you realize that only about one percent of all children who are born in the United States in a year are conceived from assisted reproduction, and of those only slightly more than eleven percent used donor eggs. So I just do not think there are enough children conceived from donor eggs to have a significant effect on society, even if all egg users were interested in "special donors," which most of them are not. By contrast, good schools and all of the advantages that people get from living in a good neighborhood, those do have an effect on equal opportunity in society, which people seem to forget sometimes.

A third objection to these ads is that they're elitist and violate a principle of equality. There is something offensive in the idea that the eggs of Princeton women are worth \$50,000 while the eggs of women from the University of Albany are only worth \$3,000.

My dear friend and colleague, John Arras, has made a tongue-in-cheek suggestion that perhaps *U.S. News and World Report* should include in their rankings of college how much their co-eds get for their eggs.

I understand the objection, but I do think that it is a little inconsistent to be terribly offended by the differential price in eggs and not by the differential opportunities that come from having gone to elite schools.

Now, the argument from fairness that I began with justifies payment for eggs in terms of the burdens and risks of egg retrieval. If that is the correct rationale, then large payments based on particular donor traits really are unjustified. Because it is just as burdensome for a SUNY Albany student to go through egg retrieval as it is for a Princeton woman.

Basing payment on sweat-equity has the advantage of not offending against a moral principle of equality. And additionally if payment is supposed to be justified on the grounds of the time burden and risk, then the woman should be paid whether or not

they actually get useful eggs because she has gone through the process and that is what she should get paid for.

So I conclude that legitimate concerns about equality, the psychological welfare of offspring and the potential for exploitation of donors justify the limiting the amount of payment and tying it to time, risk and burden, not genetic traits of donors.

I will leave those then for the question period whether they should be a matter of professional guidelines or whether the State should get involved.

Thank you.