
COMMENTARY

The Moral Economy of Fertility Markets: Hope and Hype, History, and Inclusion

Seema Mohapatra and Dov Fox

Brigitte Adams is the founder of Eggsurance.com who froze her own eggs in her late 30s (for \$19,000). In 2014, she posed for a Bloomberg Business cover story: “Freeze Your Eggs, Free Your Career.”¹ Put childbearing on ice to level the playing field and open opportunities at work.² When Adams tried to use her own frozen eggs at 45, however, she was unable to get pregnant. Adams is “still positive about egg freezing,” but “not positive about how it’s being marketed.”³

Michelle Bayefsky argues that fertility companies mislead millions of American women, including the 10,000+ who have paid to freeze their eggs.⁴ She makes the case that corporate claims to “stop time” or “freeze fertility” — while stopping short of explicit assurances — still cross the line of informed consent and truthful advertising. Her analysis of this landscape adds critical evidence to calls for transparency in the multi-billion-dollar market for reproductive services.⁵

Egg freezing ads focus on choice and control. But the science is out on how reliably frozen eggs result in live births. Individuals and couples who roll the dice for a chance at biological parenthood are entitled to know the risks and benefits going in. But misleading claims risk preying on the dreams that egg freezing can make possible, leaving too many with overblown expectations and no legal recourse.

Seema Mohapatra, M.P.H., J.D., is Associate Professor of Law and Dean’s Fellow, Indiana University Robert H. McKinney School of Law. **Dov Fox, L.L.M., J.D., D.Phil.,** is Professor of Law; Herzog Endowed Scholar; Director, Center for Health Law Policy & Bioethics, University of San Diego School of Law.

These arguments revive old questions about advances in reproductive freedom and the fraction of society who can take advantage of its newest forms.⁶ This reflection gestures toward two issues that Bayefsky does not take up: (1) history and (2) access. Neither omission diminishes the force of her findings. But both provide essential context for appreciating its full implications.

First, we have been here before. American fertility clinics have long overstated people’s chances of taking home a baby by using criteria such as the number of eggs retrieved and number of embryo transfers, rather than the number of live births.⁷ Some have even sought to signal success rates by offering splashy money-back guarantees (albeit ultimately to a fraction of uniquely low-risk patients).⁸

Public outrage over inflated fertility clinic success rates brought federal and state regulation in the early 1990s.⁹ But it wasn’t enforced. By 1996, an American Medical Association report found that “deceptive advertising and insufficient informed consent” were rampant in assisted reproduction.¹⁰ Bayefsky isn’t the first to show such marketing still wants for clarity and candor. *The New York Times* ran a recent profile on the fertility industry’s “Misleading Promise to Those over 40.”¹¹

The only federal regulation doesn’t do enough. A 1992 law asks clinics to report how often IVF patients get pregnant. But there’s no penalty for failing to comply.¹² And it’s unclear whether consumers seek out this information anyway. Bayefsky calls for oversight by the Federal Trade Commission. But she misses deeper anxieties — from across the ideological terrain — that help explain the FTC’s longstanding indifference to fertility markets.¹³

Michelle Bayefsky argues that fertility companies mislead millions of American women, including the 10,000+ who have paid to freeze their eggs. She makes the case that corporate claims to “stop time” or “freeze fertility” — while stopping short of explicit assurances — still cross the line of informed consent and truthful advertising. Her analysis of this landscape adds critical evidence to calls for transparency in the multi-billion-dollar market for reproductive services.

The second point is that red tape could make reproductive services available to fewer people. Just fifteen states mandate insurance coverage to treat infertility.¹⁴ Freezing eggs already costs anywhere from \$6,000 to \$20,000 for just one cycle, plus another \$500/year for storage, with total costs to make a baby this way around \$100,000 — at a time when median household income is half that.¹⁵ If transparency requirements would raise prices, what’s an acceptable trade-off with affordability?

Limits on access are not spread evenly, either. Recent surveys suggest just 4% of women who froze their eggs are African American, despite their higher rates of infertility.¹⁶ Insurance coverage and truth in advertising are important first steps. But these disparities probably also owe to in part egg freezing ads and brochures about “maternal ‘empowerment’ that center on elite white women” and shame or isolate women of color through marketing that leaves out their images and stories.¹⁷ The promotion of fertility services should be honest, yes, but inclusive too.

Note

The authors have no conflicts to disclose.

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