



**The New York Times** | <http://nyti.ms/1LSoobt>

U.S.

# Egg Donors Challenge Pay Rates, Saying They Shortchange Women

By **TAMAR LEWIN** OCT. 16, 2015

On their websites, next to glossy pictures of babies, some fertility clinics and egg-donor agencies refer to eggs as a “priceless gift” from caring young women who want to help people with fertility problems. There is a price tag for eggs, though, and it is now the subject of a legal battle.

In a federal lawsuit, a group of women are challenging industry guidelines that say it is “inappropriate” to pay a woman more than \$10,000 for her eggs. The women say the \$10,000 limit amounts to illegal price-fixing, and point out that there is no price restriction on the sale of human sperm. A federal judge has certified the claim as a class action, which will most likely go to trial next year.

The guidelines do not have the force of law, though they have been widely followed. But demand for eggs has increased and put pressure on their price. So some high-end fertility clinics and egg-donor agencies are ignoring the guidelines and paying far more — on rare occasions in the six figures — while donors are shopping around to get the best price.

The case could shake up the \$80 million egg-donor market by spurring more negotiation. It is a potent reminder that egg donation is a big business, though one with many more inherent ethical issues than others.

“The lawsuit is raising awareness of the commodification of the whole thing, and that’s good,” said Sierra Poulson, 28, a lawyer in Nebraska not involved with the case, and a founder of the online forum We Are Egg Donors. “The guidelines are skewed toward the intended parents, toward the industry making more money and business,” Ms. Poulson said. “We’re in America — the market would take care of itself without guidelines.”

Ms. Poulson, a three-time donor, is an example of how the market works. She was paid \$3,000 for each of her first two donations, in Kansas, but \$10,000 in Chicago for the last. “The third time I donated, the only reason was for the money,” she said.

As women wait longer to start their families, and find their fertility has waned, the demand for eggs from young donors — typically, donors are in their 20s — has risen rapidly. Cancer survivors, older women whose eggs are past their prime, and gay and straight couples using surrogates to carry their children used donor eggs in nearly 20,000 monthly cycles in 2012, compared with fewer than 12,000 a decade earlier, according to the Centers for Disease Control and Prevention, which collects statistics on assisted reproduction.

While many other countries limit egg donation and the compensation that is allowed, egg donation is essentially unregulated in the United States. But in 2000, the American Society for Reproductive Medicine established the guidelines for how much women should be paid. They say that compensation over \$5,000 requires “justification,” and that more than \$10,000 is “beyond what is appropriate.” The amounts have never been adjusted.

The society argues that capping the price ensures that low-income young women are not drawn to donate by a huge payout without considering how it may affect their lives.

“If the compensation became too high, there is a concern that it might be incentive for donors to lie about their medical history,” said Tripp Monts, a lawyer representing the society. “And it could induce young women to donate without thinking too far down the road.”

He also took issue with the idea that the guidelines represented price-fixing.

“The guidelines are just that, guidelines,” he said. “They’re not a cap, as has been portrayed.”

But the American Society for Reproductive Medicine and its sister group, the Society for Assisted Reproductive Technology, also a defendant, are membership groups that require the clinics and doctors who join to abide by their ethical standards.

The whole question of compensation for eggs is uncomfortable, raising issues of exploitation of low-income young women who are seeking to make money.

Reflecting a distaste in the United States for the idea of selling body parts, the women providing the eggs are referred to as donors, and at least theoretically are paid not for their eggs, but for the inconvenience, discomfort and health risks involved in the process of harvesting. That process requires weeks of hormone injections to stimulate the ovaries, and endurance of ultrasounds and surgery.

Many egg donors and women’s health advocates say there is a pressing need for more research on whether the high doses of hormones that women must take increase the risk of cancer or infertility, especially among repeat donors.

Some advocate the creation of a database to track donors’ health history; others suggest urging them to freeze some of the eggs to use themselves should

they later develop cancer or become infertile.

But it is intrinsic to the process that doctors, clinics and agencies who recruit donors and harvest the eggs focus less on donors' interests than on getting what the recipients paid for.

“Our whole system makes no sense,” said Debora L. Spar, the president of Barnard College and the author of a book on the assisted reproduction industry. “We cap the price because of the yuck factor of commodifying human eggs, when we should either say, ‘Egg-selling is bad and we forbid it,’ as some countries do, or ‘Egg-selling is O.K., and the horse is out of the barn, but we’re going to regulate the market for safety.’ ”

Currently, most first-time donors in California, New York and Chicago are paid \$4,000 to \$7,000, more than in other parts of the country. (The price generally includes all eggs harvested in a cycle, whether used fresh or frozen.) The pay can rise significantly for repeat donors whose first set of eggs led to a birth. But donors are becoming more savvy in seeking compensation. And mindful of the booming market, a growing number of fertility clinics have started their own in-house egg programs.

“The market has exploded and become much more competitive, and you see the same donor listed on several different sites,” said Lesa A. Slaughter, a reproductive lawyer in Los Angeles.

Some high-end fertility clinics and egg-donor agencies ignore the guidelines and pay more for eggs from particularly attractive donors: actresses, models, Asians, Jewish women and Ivy League students with high SAT scores.

“For us, a first-time Asian donor might get \$10,000-\$25,000, and a repeat donor might get to \$40,000, occasionally \$50,000,” said Darlene Pinkerton, a founder of A Perfect Match, an agency in Southern California. “Maybe twice, it’s been \$75,000. It’s gotten much more competitive now that there’s a new agency opening almost every week.”

Andrew Vorzimer, a lawyer in Woodland Hills, Calif., who specializes in reproductive law and formerly owned an egg-donation business, said, “I’ve drafted contracts for egg donors in the six figures.”

“The guidelines are a joke,” he said. “There’s no teeth.”

Mr. Vorzimer said he believed that some guidelines were necessary — both to prevent exploitation of younger women, and to prevent prices from rising so high that only the richest families would have access to donor eggs.

Sperm donors typically receive \$75 to \$100 for their comparatively carefree contribution: There is no shortage of attractive, educated donors. According to the complaint in the egg donors’ lawsuit, *Kamahaki v. American Society for Reproductive Medicine*, the women’s pay rates were originally set by taking the sperm donor compensation, calculating the amount of time men had to spend in a medical setting, and multiplying it by the much longer time women spent when donating eggs.

“Since the process of donating eggs is far more painful and risky than is the process for donating sperm, a price paid for donor services that does not account for those differences must be artificially low,” the complaint said.

Neither the egg donors named as plaintiffs in the case nor their lawyers would discuss the case, which could affect potentially thousands of women who have donated eggs since April 2007 at any fertility clinic or egg donation business that followed the guidelines.

Ms. Poulson, the egg donor in Nebraska and co-founder of the online forum, said the experience of donating was often very isolating.

“We support the lawsuit because the world of egg donation is opaque,” a statement from the forum said. “We need transparent discussions about how, exactly, the professionalization of egg donation continues to impact the transaction and care we receive. The fertility industry is keenly interested in

recruiting new and healthy donors, but generally gives little regard to what happens to us when the eggs are gone.”

Maggie Eastman, 34, of Puyallup, Wash., donated her eggs 10 times before being diagnosed with metastatic breast cancer in January 2014. Each time a doctor called to request her eggs, she said, she felt uncomfortable turning down someone who needed her help to have a baby — and, she said, no one ever told her that six donations was the recommended limit.

Ms. Eastman said she was paid \$1,600 the first time she donated, and \$2,000 each time after.

“It paid off my undergraduate student loans, almost,” she said. “I didn’t know how much other people were getting. There was no one to ask.”

A version of this article appears in print on October 17, 2015, on page A1 of the New York edition with the headline: Egg Donors Want Room to Name Their Price.