

COVID-19 TRAVEL UPDATE FOR INTERNATIONAL INTENDED PARENTS

Video Transcript, May 4

<https://www.iflg.net/covid19-travel-update-international-intended-parents-to-us/>

Rich: Hi, everybody, it's Rich and Molly, at International Fertility Law Group. We thought we would check in with everyone and give you some updates on the current status of getting here to the U.S. and getting back home during the COVID-19 travel bans.

Molly: Rich, can you start us off with talking about getting to the U.S. while travel bans are in effect?

Rich: Sure. First of all, if you are traveling from a country that is not subject to a travel ban, then you probably won't have too many issues getting here, other than proving that you have self-isolated for a period of 14 days prior to travel, or that you have a plan to self-isolate for 14 days upon arrival in the U.S.

If you are in a country that is subject to a travel ban, however, then you will go through a number of other steps to obtain permission to travel under an exception to the Presidential Proclamation.

The primary exception that would apply is that it is of a national interest to the U.S. that you be allowed to travel here as the parent of a child about to be born, so that you can not only be here to make medical decisions for the child, but also to take the child from the hospital when the child is ready to go, so that vital and currently overburdened healthcare resources can still be available during this public health crisis.

That national interest argument has been winning the day.

The way to get approved is, first of all, check to see if you have an ESTA or a visa and if it is valid. Because of the travel ban, many ESTAs and visas have been temporarily revoked or canceled, so you will need to get them reinstated. To do that you will need to contact your local U.S. Consulate or Embassy where you reside and make an appointment with them to go over all your documentation to get approved for the travel to the U.S. The documentation you will need to present will include a letter from an attorney and a letter either from the hospital where the birth will occur, the surrogate's obstetrician, or the IVF physician attesting to the national interest arguments.

In addition, you'll need an attorney letter or a G28 form filled out by the law firm stating that you have authorized the Consulate or Embassy to speak with your attorney on this matter. You will also need to be prepared to answer questions about any ESTAs or visas you have had in the past, other recent travel, and what your plans are for self-isolation, either prior to or upon arrival in the U.S.

Once the embassy has reviewed the documentation, typically they have been granting permission to travel rather quickly; although keep in mind that all final decisions are made by the U.S. State Department in Washington, D.C. Once approved, you will provide your flight itinerary to the

Consulate or Embassy, and they will notify Customs and Border Protection as well as the local airport manager at the airport you are flying into, so that everyone is aware of your travel. Of course, be sure to bring copies of the documentation you provided to the Consulate or Embassy, so that if anyone asks questions while you're traveling, you'll have printouts of everything showing you've been approved for the travel.

So that's it in terms of what you need to know about getting here. Molly, can you tell us a little bit about what you need to do to get home.

Molly: Definitely. So, getting home is still the same process. You need to start with the birth certificate, and then work for the passport or travel document to get home. Right now, the process for obtaining birth certificates is a little different than it's been: Sometimes they're taking a very long time to get, and sometimes they're quicker than they used to be. It really depends on where the surrogate lives and where she's giving birth, so make sure you talk to your lawyer, so that your attorney can properly counsel you on what to expect in terms of getting that birth certificate. A lot of the government offices are closed, but some are working with reduced staff or hours, so it's different in every area.

The next part is your passport. Now, the first option we would have recommended in the past is to apply for an expedited U.S. passport. This is an unlikely solution at this time. Expedited U.S. passports are only being granted in life and death situations right now. So if you apply anyway and get on the non-expedited list, it's going to take about eight to 12 weeks to get a U.S. passport.

The other option you have is to attempt to obtain a passport from the country where you're from. You do this by going to your local Consulate or Embassy here in the U.S. Alternatively, sometimes you can instead travel on certain emergency travel documents provided by the home country. Again, this is going to depend on where your surrogate gives birth, what's around that you can get to, and also what country you're from. So talk to your lawyer about what the best options are based upon what country you're from and where the surrogate lives in relation to your home country's closest Consulate or Embassy in the United States.

There's also the option of traveling home on the *laissez passer*, which is a document that allows you to travel without a passport. This is something that is very specific to the issuing country, and so in order to get this, you definitely need to work with a lawyer in your home country and a lawyer here in the United States.

One thing to note about the timing of the U.S. passport application: You're never giving up your right to apply for a U.S. passport for your child simply because you don't do it immediately at birth in the U.S. But it may not be the best option to get on that slow track—that eight-to-12-week track—if the other options aren't going to work for you. So, if you can't get a passport with your home country, and if emergency travel documents or a *laissez passer* are not options, then the slow track may be your only option for the U.S. passport. Just keep in mind you can never switch out of that slow track into expedited after you submit your application.

For example, if they open up expedited U.S. passports two weeks from now, but you already applied under the slow track, you can't switch over. So make sure you consider strongly the timing and what might work best for you. If you can obtain home country travel documents for your child, you can always go home on those documents and then apply for a U.S. passport at any point in the future.

Now, what happens if you are unable to get here. There are a couple of things that we strongly recommend you consider. One is temporary guardianship. You can nominate somebody who is not under any sort of travel restriction, who can come here and take temporary custody until you can, in legal guardianship documents.

Also, we recommend a temporary medical or healthcare power of attorney to make sure that medical decisions you need to have made here in the U.S. can be made in the manner that you would like them to be made.

Both are issues you should definitely be talking to your U.S.-based attorney about.

Rich: Okay, and Molly, one more thing, in terms of the intended parents getting to the U.S.: Once they're here, are we hearing from hospitals as to different policies on who's allowed into the hospital?

Molly: That's a great question. What they're for the most part telling everybody is that the parents are generally not going to be allowed to be in the delivery room. The surrogate might be allowed to have one support person. But we're starting to see exceptions here and there, where hospitals are starting to be a little more open to loosening restrictions.

Again, policies differ from location to location. Be talking to the hospital where the birth is going to occur so that you know what their policies are, what they expect from you, and what they will allow. If you're unable to be in the room for the birth, it's oftentimes a really nice thing for your own heart and your own emotions to be able to write a letter to your child. I know we mentioned this in our [other video](#), but a lot of parents have reported back that it's been a really good thing for them, to remember the moment and share it with your child when he or she is old enough.

Rich: Thanks, Molly. You know, as with our [last video](#), and our [video today](#), the 4th of May, these policies, restrictions and regulations are evolving and changing frequently, so [keep in touch](#) with us, check our [website](#), keep in touch with your local attorney in your home country, and feel free to call us or email us if you have additional questions. And if you'd like to email us, you can email me at rich@iflg.net, and you can email Molly at molly@iflg.net.

Thanks, everybody, and stay safe.

For more information and resources for intended parents, surrogates and donors during the COVID-19 emergency, visit our multi-media [resource page](#).