THE ETHICS & RELIGIOUS LIBERTY COMMISSION
OF THE SOUTHERN BAPTIST CONVENTION

OFFICE OF THE PRESIDENT

July 13, 2026

BY ELECTRONIC SUBMISSION

Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; Centers for Medicare & Medicaid Services, Department of Health and Human Services

Re: Request for Public Comment Concerning Proposed Rules on Excepted Fertility Benefits; RIN 0938-AV794, RIN 1210-AC40, RIN 1545-BS02

Dear Sir or Madam:

The Ethics & Religious Liberty Commission (ERLC) of the Southern Baptist Convention (SBC) respectfully submits the following comments in response to the proposed rules on Excepted Fertility Benefits issued by the Department of the Treasury, the Department of Labor, and the Department of Health and Human Services, published in the Federal Register on May 13, 2026.[1]

I write to you as president of the ERLC, the ethics entity of the Southern Baptist Convention, the nation's largest protestant denomination with nearly 13 million members in over 46,000 churches across the United States. The ERLC is tasked by the SBC with addressing moral, ethical, and cultural issues of importance to Southern Baptists such as religious liberty, marriage and family, the sanctity of human life, and human dignity.

As the Department of the Treasury, Department of Labor, and Department of Health and Human Services ("Departments") consider the addition of a supplemental insurance coverage option for fertility benefits, we must first articulate our moral opposition to the inclusion of coverage for artificial reproductive technologies (ARTs), including in vitro fertilization (IVF).

While these interventions are miracles of modern medicine that can lead to ultimately good ends (i.e., the creation of human life), this does not justify their use as moral, appropriate, or good. For the federal government to facilitate widespread access to ARTs and to mass endorse their use is questionable at best, with perilous moral implications at worst.

[1] "*Excepted Fertility Benefits*" 91 Fed. Reg. 27140 (May 13, 2026) https://www.govinfo.gov/content/pkg/FR-2026-05-13/pdf/2026-09479.pdf.

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The following comments will detail recommendations regarding fertility coverage from a Southern Baptist perspective, providing an overview of the morality of ARTs and IVF as well as recommendations for regulation and exclusion in the context of insurance coverage.

I. THEOLOGICAL PRINCIPLES AND MORAL CONCERNS

First, we will address six theological principles that will guide our moral and policy recommendations regarding ARTs, IVF, and fertility-related coverage:

1. **The image of God:** Southern Baptists affirm that every human being is made in the image of God, created with unique, intrinsic dignity and worth conferred by our Creator (Gen. 1:26-27). Human dignity is granted at fertilization, independent of the means or circumstances of how the child is conceived. This doctrine of the *imago Dei* applies to all human persons and has many implications for our understanding of the morality of ARTs. Chief among these implications for the purpose of fertility coverage is the innate value of every human, regardless of age, stage, or ability. The essence of being human is not dependent on one's "location" or development, but on being made in God's image and design. We are not to assign a greater value to people living outside of the womb, because "no individual has more of the image of God than another, and there is nothing that can be done to an individual to remove the image."[2] Therefore, every human being—including every embryo created through IVF—stands on equal footing in the eyes of God. Morally, embryos should be treated the same as any other person, regardless of stage of development. We believe the State has the moral responsibility to affirm the human dignity of all persons, including embryos.
2. **The sanctity of human life:** Relatedly, another guiding principle for considering the ethical nature of ARTs is the sanctity of human life. The *Baptist Faith & Message 2000*, our denomination's confession of faith, rightly acknowledges that "the sacredness of human personality is evident in that God created man in His own image, and in that Christ died for man; therefore, every person of every race possesses full dignity and is worthy of respect and Christian love."[3] Our faith compels us to "contend for the sanctity of all human life from conception to natural death"—which includes those who pursue

[2] Lenow, Evan and Jason Thacker, *Infertility & the Longing for Children: Considering the Ethical Implications of Assisted Reproductive Technologies* (April 2, 2025). https://erlc.com/research/infertility-the-longing-for-children-considering-the-ethical-implications-of-assisted-reproductive-technologies/.

[3] Southern Baptist Convention, "Baptist Faith & Message" (Nashville, TN: Southern Baptist Convention, 2000), art. III, "Man." https://bfm.sbc.net/bfm2000/#iii.

ARTs and those created through them.[4] From considering the creation of one or multiple embryos, to different methods of embryo storage, to considering surgical sterilization procedures, to weighing abortifacient medications, this principle has broad applicability in the context of ARTs and fertility-related coverage.

3. **The sanctity of the marital bond:** God's intention for procreation is within the covenant of marriage between a biological man and a biological woman. In no way does this diminish the value of children born of other circumstances, but it does call into question the practice of ARTs, which are always conducted outside the body and, often, outside the marital bond as well. As Dr. Jason Thacker and I explain, "Prior to the development of ARTs, any discussion of procreation involved the sexual act between a man and a woman, and the question of morality pivoted primarily on the basis of whether or not those two individuals were married. Now, the situation has changed because procreation can take place without the act of sexual intercourse, even among those in same-sex relationships." [5] When providing coverage for fertility treatments, this principle must be considered.
4. **Children are a blessing from the Lord:** It is vital to note in these conversations about the morality of pursuing IVF that all children conceived through this technology are not only made in the image of God, but should also be seen as good gifts from God. How a child is conceived does not change that fundamental truth. Children are a gift from God (Ps. 127:3), not a right or a commodity conferred by the government. Functionally, the prolific use of IVF and ARTs can communicate the opposite sentiment.
5. **God's providence over procreation and all of human life:** Perhaps the question that undergirds the whole discussion of the morality of ARTs is, "Does desire mean entitlement?" Or, in other words, "Is every couple who desires a child promised that they will have one?" While scientific progress over the last 60 years has opened up new frontiers for reproductive technologies and real healing for the condition of infertility, the existence of technological possibilities do not indicate moral permissibility.
6. **Relatedly, and finally, technology is an expression of our God-given dominion over creation, but also shapes our perceptions of procreation.** God has given us the ability to create technology as one way we can fulfill the creation mandate, to be fruitful and multiply and fill the earth (Gen 1:28-30). We can—and should—acknowledge the profound good that can come from technological advancement, as "[technological tools]

[4] Southern Baptist Convention, "Baptist Faith & Message" (Nashville, TN: Southern Baptist Convention, 2000), art. XV, "The Christian and the Social Order." https://bfm.sbc.net/bfm2000/#xv.
[5] ERLC, "Infertility & the Longing for Children: Considering the Ethical Implications of Assisted Reproductive Technologies" (April 2, 2025). https://erlc.com/research/infertility-the-longing-for-children-considering-the-ethical-implications-of-assisted-reproductive-technologies/.

> can be harnessed to reflect humanity's role in stewarding creation and cultivating the world." [6] But technological tools are not morally neutral, and just because we can do something does not mean that we should.

We believe these principles have serious implications for how parents should weigh the desire for children and for how we treat children once they are conceived, including those 1.2 million precious lives frozen in frozen in suspended animation in IVF clinics and storage facilities across the country.[7]

II. POSITION OF SOUTHERN BAPTISTS

Southern Baptists have a distinct position on the ethics of ARTs, including IVF.

While Southern Baptists have been writing on the fraught ethical landscape of ARTs for many many years, messengers at the 2024 SBC Annual Meeting passed the Convention's first resolution on the topic. This resolution expresses serious concerns with many forms of ART, including IVF. In it, we

> "[affirm] the unconditional value and right to life of every human being, including those in an embryonic stage, and [urge people] to only utilize reproductive technologies consistent with that affirmation, especially in the number of embryos generated in the IVF process."[8]

In that same resolution, Southern Baptists called upon the government to "restrain actions inconsistent with the dignity and value of every human being"—actions like the unregulated generation of "more embryos than can be safely implanted, the continued stockpiling, freezing, and ultimate destruction of human embryos, some of whom may also be subjected to medical

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[6] ERLC Research Team, *Desiring Children: A Practical Guide to Addressing Assisted Reproductive Technologies in the Church* (February 2026). https://erlc.com/wp-content/uploads/2026/02/ERL5243_ResearchBook_ARTs_Digital_021326c.pdf.

[7] Alessandro Bartolacci, Carolina Dolci, Luca Pagliardini, and Enrico Papaleo, "Too Many Embryos: A Critical Perspective on a Global Challenge," *Journal of Assisted Reproduction and Genetics* 41, no. 7 (2024): 1821, https://pmc.ncbi.nlm.nih.gov/articles/PMC11263306/#:~:text=It%20has%20been%20estimated%20that,decisions%20before%20initiating%20IVF%20treatment.

[8] Southern Baptist Convention, "On the Ethical Realities of Reproductive Technologies and the Dignity of the Human Embryo" adopted at the Southern Baptist Convention Annual Meeting, Indianapolis, IN, June 4, 2024, Accessed May 28, 2026. https://www.sbc.net/resource-library/resolutions/on-the-ethical-realities-of-reproductive-technologies-and-the-dignity-of-the-human-embryo/.

experimentation." Unfortunately, because of the lack of regulation in the fertility industry, these actions which disregard human dignity are all too common.

III. RECOMMENDATIONS

Consistent with this position taken by SBC messengers, we oppose the general practice of IVF and respectfully draw attention to the following recommendations with respect to the Department's proposed coverage of excepted fertility benefits.[9]

The ERLC opposes any federal mandating of IVF coverage, and therefore supports the Departments' distinction of the "voluntary nature" of fertility benefits coverage.[10]

The proposed fertility coverage, as proposed, is entirely voluntary for employers. No employer is required to offer a fertility benefit, in the same way that no employer must offer vision or dental services. We affirm that this fully voluntary, customizable structure will allow plan sponsors to elect the range of services included in the plan, enabling them to opt out of offering fertility services they may deem to be morally questionable or fraught. This structure allows for maximum flexibility for plan sponsors.

As an example, even seemingly benign interventions like artificial insemination homologous (AIH) (a form of intrauterine insemination (IUI)), which (a form of intrauterine insemination (IUI)), which transfers the sperm of a husband or male partner into the woman's uterus through artificial insemination, raises important questions for a couple about the sovereignty of God, the purpose of marriage, the intent of procreation, and more.[11] AIH may be morally permissible, but it is not morally neutral. Couples should not be encouraged to engage in these interventions thoughtlessly, and allowing for a customizable benefit helps to mitigate this overly broad offering.

Provided one has religious reasons for opposing the use of ARTs, allowing for a range of benefits permits an employer to offer fertility coverage in a way that does not violate their conscience or the consciences of their employees.

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[9] Each of these recommendations for excepted fertility benefits are rooted in the ERLC's IVF Policy Recommendations.
[10] 91 Fed. Reg. 27167 (May 13, 2026) https://www.govinfo.gov/content/pkg/FR-2026-05-13/pdf/2026-09479.pdf.
[11] ERLC Research Team, *Desiring Children: A Practical Guide to Addressing Assisted Reproductive Technologies in the Church* (February 2026). https://erlc.com/wp-content/uploads/2026/02/ERL5243_ResearchBook_ARTs_Digital_021326c.pdf.

On the whole, fertility benefits, provided in the right manner, are a good thing. Desiring to steward the body well, desiring to seek healing, and desiring to bring children into the world are good, pursued in the right context. The ERLC further affirms that the treatments made accessible through fertility coverage can promote the healing of a root-cause issue, and in many cases, result in the creation of a precious life. However, the presence of good desire, technological possibility, and potential creation of life do not justify every possible means of achieving these desires, and accordingly, parties to the insurance coverage may have sincere religious and moral objections to some or many interventions offered.

An employer should be able to offer fertility benefits to their employees in a way that does not violate their deeply held religious and moral beliefs. Further, the employee's conscience also matters. Should a plan sponsor seek to provide IVF coverage, the sponsor should ensure that any employees who object are not involved and implicated in paying for this coverage. This could mean a reduced rate, or a separate, pro-rated billing process if employees do have conscience objections.

While widespread industry regulation is beyond the scope of this proposed rule, the ERLC recommends that supplemental fertility coverage include regulatory measures which safeguard women and protect all embryos created.

The fertility industry in the United States remains largely unregulated, free from baseline regulations, requirements, and reporting standards, with little-to-no protections for parents undergoing the process or for embryos created through IVF. Current law[12] directs the Center for Disease Control (CDC) to develop a model for IVF facility accreditation, but the CDC itself does not even formally endorse the organizations that provide such accreditation, does not require states to comply, does not require all IVF providers to obtain certification, has no enforcement mechanism, and no longer has many reporting standards in place as a result of federal rulemaking that was finalized in August 2024.

This feckless lack of regulation is harmful for many reasons, not the least of which is allowing predatory companies to take advantage of families who desire children. There are no patient education or counseling standards, and at present, no clear standards regarding the treatment of live human embryos in federal law.[13]

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[12] This is provided in 42 U.S. Code § 263a–1 and a-2.
[13] 42 U.S. Code § 289g–2 regulates "human fetal tissue" solely as applied to interstate commerce. 42 U.S. Code § 289g–1 regulates the transplantation of "human fetal tissue" solely as applied to research purposes. 45 CFR § 46.206 requires the treatment of "human fetal tissue" in accordance with state and federal law.

Ultimately, we urge the federal government to develop and implement a system of federal oversight that protects and ensures human embryos are treated with care and dignity as well as educates couples on the moral concerns of these practices. **In the context of this proposed rule, the Departments should implement such measures wherever possible.**

Best practice regulatory measures for supplemental plans should include:[14]

- Requiring facilities to meet standards ensuring all existing frozen embryos are treated with care;
- Prioritizing robust patient education, ensuring women and families are informed of the risks of, alternatives to, and the significant ethical concerns associated with IVF;
- Preventing the disposal of any embryo—especially due to genetic testing results or sex selection, recognizing that both are forms of discrimination;
- Require stricter standards to be implemented for the storage, retrieval, and thawing of existing embryos to ensure as many children as possible remain viable;
- Discourage the indefinite freezing of embryos in perpetuity and encourage the pursuit of all other options to bring embryos to term by their biological parents or adoptive parents.

Without appropriate industry guardrails, inadequately tailored fertility coverage offerings further risk normalizing practices that devalue nascent human life and potentially open the door to even more troubling interventions. At the very least, any such expansion of coverage should be accompanied by significant ethical standards of care.

In this vein, it is wholly appropriate for the Department to clarify certain limits and exceptions in creating supplemental fertility benefits.

The proposed rule aptly states, "Departments have consistently applied limiting principles in prior rulemakings when exercising their statutory authority to specify in regulations additional categories of limited excepted benefits."[15]

Therefore, coverage should not include human cloning, sperm and egg donation to a third party, gene editing, preimplantation genetic screening, artificial womb technology, international surrogacy, and domestic surrogacy. Additionally, coverage should seek to limit IVF treatments to

[14] ERLC, *IVF Policy Recommendations* (February 25, 2026). https://erlc.com/wp-content/uploads/2025/08/January-2026_-ERLC-IVF-Policy-Recommendations-One-Pager-1.pdf
[15] 91 Fed. Reg. 27145 (May 13, 2026) https://www.govinfo.gov/content/pkg/FR-2026-05-13/pdf/2026-09479.pdf.

the creation, transfer, and implantation of one embryo at a time to prevent the storage of human embryos without plans to bring the children to term.[16]

Not only do these interventions not seek to actually achieve the rule's intended purpose of the fertility benefits, which is "diagnosis, mitigation, or treatment of infertility or infertility-related reproductive health conditions," they are expensive, taxing, and morally questionable, at best.

The ERLC recommends the Department include a clarified definition of "infertility" in the rule and affirms the following definition:

"The term 'infertility' means a symptom of an underlying disease, condition, or status within a person's body characterized by the failure to establish a pregnancy or to carry a pregnancy to live birth—

a. "(A) after regular, unprotected sexual intercourse between a biological male and female in accordance with the guidelines of the American Society for Reproductive Medicine, which recommend evaluation after 12 months of targeted intercourse for women under 35 or after six months of targeted intercourse for women 35 and older, without the use of a chemical, barrier, or other contraceptive method[17];
b. "(B) following the pursuit of first attempting alternate methods of fertility treatment which seek to address the root causes of infertility, reflecting a step-therapy approach at the counsel of a licensed physician; and
    i. Alternate methods must seek to address the root cause of infertility, and include practices such as:
        1. Restorative Reproductive Medicine (RRM)
        2. NaPro Technology and FertilityCare consultations
        3. Surgical treatment of underlying conditions (endometriosis, fibroids, PCOS)
        4. Fertility awareness-based methods
        5. Male factor infertility workup and treatment
c. "(C) which is confirmed by the findings of a licensed physician based on the medical, sexual, and reproductive history, age, physical findings, or diagnostic testing of the individual.

[16] ERLC, *IVF Policy Recommendations* (February 25, 2026). https://erlc.com/wp-content/uploads/2025/08/January-2026_-ERLC-IVF-Policy-Recommendations-One-Pager-1.pdf
[17] American Society for Reproductive Medicine, "Definition of Infertility: A Committee Opinion" (2023), Accessed July 13, 2026. https://www.asrm.org/practice-guidance/practice-committee-documents/definition-of-infertility/.

This definition, or a similar one, seeks to incentivize a step-wise approach to treatment, clarifies that the two covered parties are biologically male and female, and does not rush couples into preemptive use of ARTs.

Further, as part of a clarified definition of infertility, the Departments should ensure that fertility coverage primarily includes, and incentivizes, treatments that address the root cause of infertility.

As the rule states, the purpose of the proposed fertility benefits coverage is "for the diagnosis, mitigation, or treatment of infertility or infertility-related reproductive health conditions."[18] The proposed rule also states that it is the intention of the Departments to specify that "such benefits may include medically appropriate items or services targeted to address infertility-related reproductive health conditions, in order to clarify that this provision would include benefits for items and services to address underlying medical causes of the infertility."[19]

A recent study conducted across the United States, United Kingdom, Ireland, and Canada found that most people want to pursue more holistic and lower-cost options before pursuing interventions like IVF.[20] Eighty-nine percent of women said they would prefer to try a less invasive option, if recommended by medical professionals, before beginning IVF. This boasts the need for holistic, low-intervention options to be offered, and for a clear step-wise approach to infertility treatment to be followed.

The need to prioritize patient counseling and education is evident, with 78% of women indicating they would be more likely to pursue root cause treatments first if they had better information about them.[21]

As noted in the definition of infertility above, alternate methods must seek to address the root cause of infertility, and include practices such as:

- Restorative Reproductive Medicine (RRM)
- NaPro Technology and FertilityCare consultations
- Surgical treatment of underlying conditions (endometriosis, fibroids, PCOS)
- Fertility awareness-based methods
- Male factor infertility workup and treatment

[18] 91 Fed. Reg. 27145 (May 13, 2026) https://www.govinfo.gov/content/pkg/FR-2026-05-13/pdf/2026-09479.pdf.
[19] *Ibid*, 27145.
[20] Carrot Fertility, *Beyond IVF: What People Really Want from Fertility Care* (March 2026), Accessed July 10, 2026. https://content.get-carrot.com/rs/418-PQJ-171/images/2026-Beyond-IVF-Report.pdf.
[21] *Ibid*.

The ERLC supports the federal version of the bill referenced in the proposed rule, the Reproductive Empowerment and Support Through Optimal Restoration (RESTORE) Act.[22] This legislation details additional alternate methods which are appropriate for coverage in pursuit of root cause treatment.

To conclude, as those who firmly hold to the sanctity of both human life and of the marital bond, the ERLC contends that the God-given, good desire for children does not justify every means of creating them.

While we grieve alongside those struggling to conceive, we cannot ignore serious ethical concerns with the practice of IVF. More enduringly, we cannot conclude that the desire for children necessitates that the government bear the responsibility of ensuring this desire becomes a reality—particularly when current ART practices present a moral conundrum about which potential parents are likely less-than informed.

As a supplemental fertility benefit option is created, we contend that IVF should not be included. Should IVF be included, we assert that the Departments should regulate its utilization, and provide proper guardrails which seek to preserve the sanctity and dignity of all lives involved. We ask that the Departments construct federal guidance and coverage options with these concerns and proposed points of regulation and limitation in mind.

Respectfully submitted,

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of the Southern Baptist Convention

[22] 91 Fed. Reg. 27144 (May 13, 2026) https://www.govinfo.gov/content/pkg/FR-2026-05-13/pdf/2026-09479.pdf.