

Wilmington, Delaware
June 1, 2023

#0311

Sponsor:

**Council
Member**

B. Fields

WHEREAS, on November 20, 2020, in compliance with the Executive Order on Advancing American Kidney Health, the Centers for Medicare and Medicaid Services (CMS) issued a final rule to update the Conditions for Coverage (CfC) that Organ Procurement Organizations (OPOs) must meet to receive Medicare and Medicaid payment for a lifesaving organ transplant. OPOs mediate the organ donation and transplantation process, there are currently 56 OPOs in the United States facilitating organ transplantation in their respective Donation Service Areas (DSA); and

WHEREAS, the National Academies of Science, Engineering and Medicine (NASEM), conducted a study funded by the United States Congress, which provided recommendations to improve equity, instill accountability and improve health outcomes in America's organ donation system. This study was conducted to evaluate the fairness, transparency and cost-effectiveness of legislation and policies guiding the organ procurement network, including the CMS final rule for coverage of organ transplantation. On August 1, 2022, new policies were enacted, prior to consideration of the outcomes of the NASEM report, which was published in the same year. The new policies effectively require OPOs to compete against one another to serve their Donation Service Areas (DSA). By increasing the financial incentive for the procurement of organs, vulnerable communities are less likely to receive lifesaving transplants; and

WHEREAS, racial inequalities and disparities in access to healthcare continue to impact communities across the United States, policymakers have made steps to eliminate them but there is still much work to be done. Higher performance measures adopted by the CMS,

which threaten the certification and funding of OPOs, can cause disruptions in organ procurement that will reduce the number of and access to available organs for patients who depend on Medicare and Medicaid coverage to finance organ transplantation procedures. Racial and ethnic minorities, who already experience a lower transplantation rate and a greater need than white patients, would be disproportionately affected; and

WHEREAS, unless the 2020 final rule is reversed, barriers to life-saving organ transplants will be exacerbated, particularly for racial and ethnic minorities. It is imperative that new policies, informed by the 2022 NASEM report on equity and fairness in the transplantation network, are enacted to reduce further limitations on patients' participation in the organ donation and transplantation system in the United States; and

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON that this Council urges Delaware General Assembly and Federal Delegation to appeal to the U.S. Secretary of the Department of Health and Human Services and the Administrator for the Centers for Medicare and Medicaid Services to revise CMS policies that create competitive bidding requirements for Organ Procurement Organizations (OPOs).

BE IT FURTHER RESOLVED that this Council encourages the Department of Health and Human Services and the Centers for Medicare and Medicaid Services to give full consideration to the guidance set forth by the 2022 National Academies of Science, Engineering and Medicine (NASEM) report that included evaluations and recommendations to prevent inequities and racial disparities in the procurement, donation, and transplantation of organs.

Passed by City Council,

ATTEST: _____
City Clerk

SYNOPSIS: On August 1, 2022, new policies were enacted by the Centers for Medicare and Medicaid Services (CMS) that effectively require OPOs to compete against one another to serve their Donation Service Areas (DSA). At present, these policies fail to take into account the congressionally-funded 2022 National Academies of Science, Engineering and Medicine (NASEM) report, which was conducted to evaluate the fairness, transparency and cost-effectiveness of legislation and policies guiding the organ procurement network, including the CMS final rule for coverage of organ transplantation. The Wilmington City Council urges the U.S. Secretary of the Department of Health and Human Services and the Administrator for the Centers for Medicare and Medicaid Services to give full consideration to the guidance set forth by the 2022 NASEM report prevent inequities and racial disparities in the procurement, donation, and transplantation of organs.