ASTS
American Society of Transplant Surgeons

June 1, 2026

The Honorable Mehmet Oz, MD, MBA
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
Hubert H. Humphrey Building, Room 445–G
200 Independence Avenue, SW
Washington, DC 20201

RE: [CMS–1849–P] RINs 0938–AV79; Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals (IPPS) and Long-Term Care Hospitals (IPPS Proposed Rule)

Dear Administrator Oz:

As President of the American Society of Transplant Surgeons (ASTS), I am pleased to have the opportunity to comment on the provisions of the IPPS Proposed Rule related to Medicare payment for extra-renal organ procurement. Specifically, the IPPS Proposed Rule would significantly modify Medicare payment for extra-renal organs by extending the Medicare cost-based payment rules, which are currently applicable only to Organ Procurement Organizations (OPO) procurement of deceased donor kidneys, to OPO procurement of extra-renal organs and by regulating the Standard Acquisition Charges (SACs) paid by transplant programs to OPOs for extra-renal organs.

While ASTS concurs with CMS's concerns about the rising costs of deceased donor extra-renal organs, we are also aware that the implementation of Medicare's new outcomes standards is likely to result in substantial changes for OPOs over the next several years. We believe it critical that payment changes do not further destabilize organ procurement or otherwise interfere with our patients' access to organs suitable for transplantation.

Under the new outcome standards, anywhere between zero and over 50 percent of OPOs may fall into Tier 3 DSAs (and therefore required to be de-certified) during the upcoming certification cycle. Based on the 2025 CMS OPO Annual Public Aggregated Performance Report, 26 OPOs were classified in Tier 2 or Tier 3 DSAs (16 in Tier 2 and 10 in Tier 3). These OPOs are responsible for organ procurement for up to 47 percent of all DSAs and may change over the next several years. At the same, the number of OPOs likely to be able to take over under-performing DSAs appears to be relatively limited; only 10 OPOs consistently attained Tier 1 status over the past three years. Thus, the data currently available suggests that organ procurement in this country is about to enter a time of considerable change and uncertainty. We have serious reservations about completely transforming OPO finances during the upcoming transitional period.

We are particularly concerned that it is unclear to ASTS whether the costs of preparing bids (especially unsuccessful bids) and financing the legal, organizational and operational changes necessary to expand into new DSAs will be considered costs "related to patient care" under traditional cost reimbursement principles. It is also unclear to ASTS whether the OPOs that are procuring organs in high performing DSAs will have sufficient incentive to expand into new DSAs in the face of uncertainty over future financing, especially with the understanding that they will not be able to generate any margin on future extra-renal organ acquisitions, as they have in the past.

We recognize and appreciate CMS's proposal to delay implementation of cost-based payment for extra-renal organs until October 1, 2027; however, in the event that CMS decides to finalize these changes, we urge CMS to consider furthering delaying implementation until after the OPOs that take over Tier 3 DSAs (and that submit winning bids for Tier 2 DSAs) have established operations in their expansion DSAs for at least one year. Such a delay would facilitate the submission of bids by enabling potential bidders to count on at least some financial stability during the transition period and would enable the better-performing OPOs to take on new DSAs with the assurance that the SACs established for both renal and extra-renal organs in their expanded territories will fully reflect their actual costs.

ASTS appreciates the opportunity to comment on this important issue. If you have any questions regarding these comments, please do not hesitate to contact Emily Besser, Director, Advocacy and Professional Practices, at Emily.Besser@asts.org.

Respectfully,

James F. Markmann, MD, PhD