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**American Society of Transplant Surgeons®**

February 5, 2020

Frank Holloman  
Director, Division of Transplantation  
Healthcare Systems Bureau  
Health Resources and Services Administration  
5600 Fishers Lane, Room 08W63  
Rockville, MD 20857

**RE: HHS Docket No. HRSA-2019-0001; RIN 0906-AB23; Removing Financial Disincentives to Living Organ Donation**

Dear Mr. Holloman:

The American Society of Transplant Surgeons (ASTS) applauds and strongly supports the proposal published by the Health Resources and Services Administration (HRSA) in the December 20, 2019 *Federal Register*, which would authorize reimbursement of lost wages, child care, and eldercare expenses for living donors who meet National Living Donor Assistance Center (NLDAC) eligibility criteria (“the NLDAC Proposed Rule”). ASTS is a medical specialty society representing approximately 1,800 professionals dedicated to excellence in transplantation surgery. Our mission is to advance the art and science of transplant surgery through patient care, research, education, and advocacy.

NLDAC Reimbursement for Lost Wages and Child/Eldercare Expenses

ASTS, as a subcontractor on the HRSA grant “Reimbursement of Travel and Subsistence Expenses for Living Organ Donation,” has a deep understanding of the barriers to living organ donation and the positive impact the grant funding has on living donation. We strongly support HRSA’s proposal to adopt a new regulation that would authorize reimbursement for lost wages and child/eldercare expenses and believe that the provision of such reimbursement has the potential to significantly expand the number of living donor transplants. As noted in the NLDAC Proposed Rule, living donor transplantation is not only clinically superior to all other treatment modalities (including deceased donor transplantation) but is also extraordinarily cost effective. Few other clinical interventions so effectively deliver superior clinical results at a substantial cost saving. Our experience as a NLDAC subcontractor suggests that providing reimbursement for lost wages and child/eldercare expenses has the potential to significantly increase living donation and, for this reason, we strongly support the adoption of a regulation that clearly authorizes HRSA to provide such reimbursement.

We do have a number of observations and suggestions that we hope will be helpful to HRSA as it moves forward in implementing the proposed expansion of NLDAC. First, as indicated in the preamble to the NLDAC Proposed Rule, HRSA is currently

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considering changes to the eligibility requirements for donors to qualify for NLDAC reimbursement and indicates that this initiative is being pursued independently. We strongly encourage HRSA to update the eligibility requirements to enable NLDAC to provide financial assistance to an increased number of potential donors. The current income eligibility threshold was established in 2007 and published in the Federal Register as amended (Federal Register, Vol 74, No 117, 09 June 2009, pages 29218-29220). In May 2017, the NLDAC Advisory Group recommended an increase in the income eligibility threshold to increase the number of individuals who could qualify for relief from the financial burden of living donation through reimbursement of non-medical donation-associated travel and subsistence expenses. An increase in income eligibility threshold will enable more people to qualify for NLDAC reimbursement of non-medical donation-related expenses and thus potentially increase the number of living donors.

In addition, we strongly encourage HRSA to adopt any changes to NLDAC eligibility requirements at the same time as it implements reimbursement for lost wages and child/elder care. While future funding levels for NLDAC are not known at this time, what is known is that the amount of funding ultimately appropriated by Congress will be a fixed “pot” in any given fiscal year, and therefore amounts paid for lost wages and child/eldercare expenses necessarily cannot be paid to cover the travel and subsistence expenses of potential donors who become newly eligible as the result of expanded eligibility criteria. In order to maximize the number of living donor transplants made possible by NLDAC, it inevitably will be necessary to establish funding caps, and those caps should be established based on the most accurate possible projections of eligible donors (including those who become eligible as the result of any changes in the eligibility guidelines). For this reason, we strongly urge HRSA to implement any new reimbursement program for lost wages and child/eldercare expenses in a manner that is fully coordinated with anticipated eligibility expansion.

Second, we urge that HRSA work closely with the current Program Team and NLDAC Advisory Group in implementing any expansion of the NLDAC program. The NLDAC Proposed Rule indicates that, if the proposed rule is adopted without change, there would be a four- to six-fold increase in the number of NLDAC applicants. It appears likely that significant structural and operational changes will be necessary to ensure that NLDAC continues to function in a manner that minimizes administrative costs and that provides financial assistance to eligible potential donors efficiently.

Third, we urge HRSA to make a number of modifications in the wording of proposed 42 CFR §121.14(a). First, it is our understanding that the purpose of the new regulation is to authorize reimbursement for lost wages and child/eldercare expenses in addition to travel and subsistence expenses that are currently reimbursed under NLDAC. Second, the NLDAC Proposed Rule also solicits comments on potential reimbursement for “foregone medical insurance benefits,” defined as the loss of a wage supplement for medical insurance premiums provided by an employer. We believe that proposed 42 CFR §121.14(a) should be modified to authorize payments for such wage supplements and any other benefit that the applicant foregoes as the result of the applicant’s decision to be a living donor.

Recommendation: *We recommend that §121.14(a) be modified to include the underscored language:*

- (a) **In addition to travel and subsistence expenses**, the following incidental nonmedical expenses incurred by donating individuals toward making living donations of their organs may be reimbursed:
  - (1) Lost wages;
  - (2) Child-care expenses; ~~and~~

(3) Elder-care expenses--*and*  
**(4) any other payment or other benefit that a living donor foregoes as a result of the applicant's decision to donate an organ.**

(b) [Reserved]

Again, ASTS strongly supports the Administration's attention to the need to eliminate obstacles to transplantation, and we believe that finalizing the NLDAC Proposed Rule to facilitate reimbursement of lost wages and child/eldercare expenses of those who meet HRSA eligibility criteria will significantly advance progress toward this goal. If you have any questions or if we can be of any assistance in implementing this needed NLDAC expansion, please do not hesitate to contact Daniel D. Garrett, CAE at [Daniel.Garrett@asts.org](mailto:Daniel.Garrett@asts.org) or (703) 414-7870.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "L. Ratner", is positioned above the typed name.

Lloyd E. Ratner, MD, MPH, FACS  
President  
American Society of Transplant Surgeons