

The OPTN shall advise transplant hospitals of the information needed for such listing.

(c) An OPTN member shall pay a registration fee to the OPTN for each transplant candidate it places on the waiting list. The amount of such fee shall be calculated to cover (together with contract funds awarded by the Secretary) the reasonable costs of operating the OPTN and shall be determined by the OPTN with the approval of the Secretary. No less often than annually, and whether or not a change is proposed, the OPTN shall submit to the Secretary a statement of its proposed registration fee, together with such supporting information as the Secretary finds necessary to determine the reasonableness or adequacy of the fee schedule and projected revenues. This submission is due at least three months before the beginning of the OPTN's fiscal year. The Secretary will approve, modify, or disapprove the amount of the fee within a reasonable time of receiving the OPTN's submission.

[63 FR 16332, Apr. 2, 1998, as amended at 64 FR 56659, Oct. 20, 1999]

§ 121.6 Organ procurement.

The suitability of organs donated for transplantation shall be determined as follows:

(a) *Tests.* An OPTN member procuring an organ shall assure that laboratory tests and clinical examinations of potential organ donors are performed to determine any contraindications for donor acceptance, in accordance with policies established by the OPTN.

(b) *HIV.* The OPTN shall adopt and use standards for preventing the acquisition of organs from individuals known to be infected with human immunodeficiency virus.

(c) *Acceptance criteria.* Transplant programs shall establish criteria for organ acceptance, and shall provide such criteria to the OPTN and the OPOs with which they are affiliated.

[63 FR 16332, Apr. 2, 1998, as amended at 64 FR 56659, Oct. 20, 1999]

§ 121.7 Identification of organ recipient.

(a) *List of potential transplant recipients.* (1) An OPTN member procuring an organ shall operate the OPTN computer match program within such time as the OPTN may prescribe to identify and rank potential recipients for each cadaveric organ procured.

(2) The rank order of potential recipients shall be determined for each cadaveric organ using the organ specific allocation criteria established in accordance with § 121.8.

(3) When a donor or donor organ does not meet a transplant program's donor acceptance criteria, as established under § 121.6(c), transplant candidates of that program shall not be ranked among potential recipients of that organ and shall not appear on a roster of potential recipients of that organ.

(b) *Offer of organ for potential recipients.* (1) Organs shall be offered for potential recipients in accordance with policies developed under § 121.8 and implemented under § 121.4.

(2) Organs may be offered only to potential recipients listed with transplant programs having designated transplant programs of the same type as the organ procured.

(3) An organ offer is made when all information necessary to determine whether to transplant the organ into the potential recipient has been given to the transplant hospital.

(4) A transplant program shall either accept or refuse the offered organ for the designated potential recipient within such time as the OPTN may prescribe. A transplant program shall document and provide to the OPO and to the OPTN the reasons for refusal and shall maintain this document for one year.

(c) *Transportation of organ to potential recipient—*(1) *Transportation.* The OPTN member that procures a donated organ shall arrange for transportation of the organ to the transplant hospital.

(2) *Documentation.* The OPTN member that is transporting an organ shall assure that it is accompanied by written documentation of activities conducted to determine the suitability of the organ donor and shall maintain this document for one year.

§ 121.8

42 CFR Ch. I (10–1–10 Edition)

(3) *Packaging.* The OPTN member that is transporting an organ shall assure that it is packaged in a manner that is designed to maintain the viability of the organ.

(d) *Receipt of an organ.* Upon receipt of an organ, the transplant hospital responsible for the potential recipient's care shall determine whether to proceed with the transplant. In the event that an organ is not transplanted into the potential recipient, the OPO which has a written agreement with the transplant hospital must offer the organ for another potential recipient in accordance with paragraph (b)(2) of this section.

(e) *Blood vessels considered part of an organ.* A blood vessel that is considered part of an organ under this part shall be subject to the allocation requirements and policies pertaining to the organ with which the blood vessel is procured until and unless the transplant center receiving the organ determines that the blood vessel is not needed for the transplantation of that organ.

(f) *Wastage.* Nothing in this section shall prohibit a transplant program from transplanting an organ into any medically suitable candidate if to do otherwise would result in the organ not being used for transplantation. The transplant program shall notify the OPTN and the OPO which made the organ offer of the circumstances justifying each such action within such time as the OPTN may prescribe.

[63 FR 16332, Apr. 2, 1998, as amended at 64 FR 56659, Oct. 20, 1999; 72 FR 10925, Mar. 12, 2007]

§ 121.8 Allocation of organs.

(a) *Policy development.* The Board of Directors established under § 121.3 shall develop, in accordance with the policy development process described in § 121.4, policies for the equitable allocation of cadaveric organs among potential recipients. Such allocation policies:

(1) Shall be based on sound medical judgment;

(2) Shall seek to achieve the best use of donated organs;

(3) Shall preserve the ability of a transplant program to decline an offer of an organ or not to use the organ for

the potential recipient in accordance with § 121.7(b)(4)(d) and (e);

(4) Shall be specific for each organ type or combination of organ types to be transplanted into a transplant candidate;

(5) Shall be designed to avoid wasting organs, to avoid futile transplants, to promote patient access to transplantation, and to promote the efficient management of organ placement;

(6) Shall be reviewed periodically and revised as appropriate;

(7) Shall include appropriate procedures to promote and review compliance including, to the extent appropriate, prospective and retrospective reviews of each transplant program's application of the policies to patients listed or proposed to be listed at the program; and

(8) Shall not be based on the candidate's place of residence or place of listing, except to the extent required by paragraphs (a)(1)–(5) of this section.

(b) *Allocation performance goals.* Allocation policies shall be designed to achieve equitable allocation of organs among patients consistent with paragraph (a) of this section through the following performance goals:

(1) Standardizing the criteria for determining suitable transplant candidates through the use of minimum criteria (expressed, to the extent possible, through objective and measurable medical criteria) for adding individuals to, and removing candidates from, organ transplant waiting lists;

(2) Setting priority rankings expressed, to the extent possible, through objective and measurable medical criteria, for patients or categories of patients who are medically suitable candidates for transplantation to receive transplants. These rankings shall be ordered from most to least medically urgent (taking into account, in accordance with paragraph (a) of this section, and in particular in accordance with sound medical judgment, that life sustaining technology allows alternative approaches to setting priority ranking for patients). There shall be a sufficient number of categories (if categories are used) to avoid grouping together patients with substantially different medical urgency;