

## HHS Sued by Organ Donor Nonprofits Over ‘Cutthroat’ Competition

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A group of organizations responsible for partnering with hospitals to facilitate the organ donation process sued the Department of Health and Human Services Friday, saying new rules will sow chaos in the nation’s organ donation system by creating a Hunger-Games-style competition between nonprofits.

The organizations, nonprofits that obtain organs from deceased donors for transplants, alleged the agency will begin enforcing new rules starting next year that only guarantee survival of the top organizations based on competitive performance metrics.

The new rules will be to the “substantial detriment of donors, donor families, and patient candidates on the transplant waiting list,” the lawsuit filed by procurement organizations in Michigan, South Carolina, and New England.

Using “stale” performance data based on rates of donations and transplants from 2024, the Center for Medicaid Services will rank procurement organizations, and those outside the median will be immediately de-certified and eliminated from the donation and transplant system.

In this first de-certification cycle, CMS estimated that it could eliminate 22 procurement organizations, which is 40% of the nation’s total.

“Future cycles of this rank-and-yank policy will reduce the field further, until the whole system is reduced to less than a handful of national OPOs,” the complaint said, which was filed in the US District Court for the District of Columbia.

The suit said the new rules are contrary Congress’ mandate and are arbitrary in capricious in violation of the Administrative Procedure Act.

Hogan Lovells LLP represents the procurement organizations.

The case is **New England Donor Services Inc. v. US Department of Health and Human Services**, D.D.C., No. 1:25-cv-04329, 12/12/25.