Proposed tax credit for organ donation raises ethical concerns

Published at www.cmaj.ca on June 9

Governments should issue tax credits for organ donations to ensure that bereaved families honour donor's wishes, says an ethicist and visiting fellow at the Université de Montréal in Quebec.

If an advocate acting on behalf of a deceased donor received a modest tax credit, fewer donations would be "vetoed" by family members and people would be more likely to discuss organ donation with their loved ones, says Jurgen De Wispelaere, who along with Lindsay Stirton, a law professor at the University of Manchester in England, proposes that governments around the world adopt a new two-pronged organ donation policy.

But organ donation experts in Canada aren't sold on the idea, on the grounds it is not essential and that it may lead to the "commoditization" of organs.

The two-pronged proposal would necessitate a redesign of the organ donation registration process to include the signature of a second person, or consenter, on organ donation cards (*J Med Ethics* 2010;36:180-3). It is that second person who would receive the tax credit for acting as an advocate on behalf of the deceased donor.

"The second consenter becomes a living advocate of the donor after death and also represents the family to medical staff," De Wispelaere explains. "This would combat a reluctance of the family to accept that the donor really was a donor. It would ensure that they are much more comfortable with [the person becoming an organ donor]."

According to Stirton and De Wispelaere, there should be an incentive for people to take on the living advocate role — and then to make sure those people don't change their minds.

"The second consenter would get a tax credit for signing up," says De Wispelaere. But the tax credit would be negated if he or she subsequently vetoed the organ donation.

Reuters/Fabrizio Bensch

Surgeons extract the liver and kidneys of a brain-dead woman for organ transplant donation.

It's a novel idea, says De Wispelaere, because it's an incentive program which focuses on the donor's family, rather than the actual donor.

But Dr. Sam Shemie, medical director of organ and tissue donation for Canadian Blood Service, says the proposal, while provocative, is a "band-aid" solution to the organ donation problem.

"Why is it that a Canadian can't easily express their intention, and why is it that that intention is not honoured if they should die? Why would you really need an advocate?" explains Shemie. "To me, [this proposal] exposes some of the ineffectiveness of our Canadian system."

According to statistics from the Canadian Organ Replacement Register, there were 3796 Canadians on the organ donation waitlist in 2009 and 2155 organ transplants.

Currently, some provinces in Canada have a program that repays expenses for living donors; in the United States, there are also programs to subsidize funeral arrangements for donors (*CMAJ* 2008. DOI:10.1503/cmaj.080704).

The proposed tax credit would not issue to the estate but rather, to a third party, which makes some Canadian organ donation experts nervous.

Providing any kind of financial reimbursement for organ donation is a "slippery slope," says Dr. William Wall, a transplant surgeon at the London Health Sciences Centre at the University of Western Ontario in London, Ontario. "This always has to pass the transparency test to show there is no coercion, and that hospitals are not paying for organs."

Shemie is also troubled by the idea of compensation. "It speaks to the issue of commoditization of the body," he says.

De Wispelaere counters that the tax credit has nothing to do with "selling organs" because the living advocate

would receive the incentive when the potential donor dies "even if the organs are unusable."

"The reason it's not a market is that there is no competitive pricing. It's universal and the tax credit will be much, much more modest than a price on the black market," he explains. "The tax credit would be the same independent of how many organs are harvested."

De Wispelaere argues that a tax credit would mitigate against family opposition to organ donation. According to international statistics, compiled by De Wispelaere, up to 50% of organs are not used because the family either vetoes the donation or fails to provide consent before it is too late for the organ to be harvested.

A tax credit would be an "incentive," rather than a payment, he says. "If we think of organ donation as a general public good — society as a whole is much better off when we donate organs — we could better think of tax credits as an incentive to help society."

Wall concurs that a tax credit "would be an incentive, especially if the deceased had a signed donor card." But he is not sure that the proposal would have the desired result, since the notion only affects those who have already registered as donors.

"Our experience at the London Health Sciences Centre is that if the person has a signed donor card — it would be exceptional for a next of kin not to accept it," explains Wall. "So this proposal could be a kind of rubber-stamping of something that would already exist."

Regardless of the feasibility of adopting a tax credit in Canada, Shemie says the country's "organ donation problem needs to be addressed." The process for people to become registered donors can be confusing, he says, because "it's different in every single province. … Some provinces have it on their driver's licence; some provinces have it on their health card; some provinces have it on some kind of computerized registry."

Canadian Blood Services is currently completing a cross-Canada consultation program aimed at developing national standards for organ and tissue donation and transplantation. Shemie says the committee hopes to have its complete findings ready this fall. Several organ donation experts hope the exercise will ultimately yield a national registry and allocation mechanism for organs and tissues (*CMAJ* 2006. DOI:10.1503/cmaj.061256). — Elyse Skura, Ottawa, Ont.

DOI:10.1503/cmaj.109-3282