

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MIRIAM HOLMAN,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF HEALTH
AND HUMAN SERVICES through ERIC
HARGAN in his official capacity as Acting
Secretary of the United States Department of
Health and Human Services,

Defendant.

Civil Action No.: 1:17-cv-09041 (LTS)

ORDER

For the reasons stated on the record of the hearing held on November 20, 2017, Plaintiff's application for a temporary restraining order requiring the Acting Secretary of the Department of Health and Human Services ("HHS") to disregard Classifications 1 through 6 of OPTN Policy 10.C.4. Table 10-9 and allocate lungs by medical priority starting with Classification 7 is denied.

HHS is hereby ordered to initiate an emergency review of the current allocation policy and file a written report by 5:00 p.m. on November 28, 2017, as to whether and to what extent the policy will be changed, and a timetable for the implementation of any change(s).

The parties shall promptly confer and propose to the Court a schedule for briefing and hearing of the preliminary injunction aspect of Plaintiff's motion. The parties are hereby notified that the undersigned is not available to conduct a hearing on December 4-5, 12-13, 18-21, 25-29, 2017, or January 1, 2018. If necessary, the Court will inquire as to the availability other judicial officers of the District after reviewing the proposed schedule, which shall include an estimate of the time required for a preliminary injunction hearing.

SO ORDERED.

Dated: New York, New York
November 20, 2017

/s/Laura Taylor Swain
Laura Taylor Swain
United States District Judge