

needs of children” as well as the Secretary’s own regulation, 42 C.F.R. § 121.8(b), which requires OPTN’s policies to give greatest consideration to allocating organs based on medical urgency, and that the Secretary’s refusal to set aside the Under 12 Rule to protect the very few children nationally who are subject to it, despite evidence showing that the Rule discriminates against children and serves no purpose, is arbitrary, capricious, and an abuse of discretion. AND NOW, having considered the matter, including the Declarations of Sharon Ruddock and Arthur Baines, it is hereby ordered that the motion for a TRO is granted and that the Secretary shall direct the OPTN to immediately cease application of the Under 12 Rule as to Sarah Murnaghan so that she can be considered for receipt of donated lungs from adults based on the medical severity of her condition as compared to the medical severity of persons over 12 in the OPTN system. This Order shall remain in effect unless and until the Court orders otherwise at the conclusion of the hearing on a preliminary injunction.

A hearing on the preliminary injunction will be held June 14, 2013, at 10 a.m. in Courtroom 3A.

/s/ Michael M. Baylson

MICHAEL M. BAYLSON
U.S. District Judge
6/5/13