

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

STATE OF TEXAS, *et al.*,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as
Secretary of Health and Human Services, *et al.*,

Defendants.

Civil Action No. 5:22-cv-00185-H

DEFENDANTS' MOTION TO DISMISS

Defendants hereby move to dismiss Plaintiffs' Amended Complaint, *see* ECF No. 18, under Federal Rule of Civil Procedure 12(b)(1). As further detailed in the accompanying memorandum of law, also submitted in opposition to Plaintiffs' Motion for a Preliminary Injunction or Temporary Restraining Order, *see* ECF Nos. 22 (Motion), 23 (Memorandum, or "Pls.' Mem."), Plaintiffs' Complaint fails for threshold reasons, including standing, and should be dismissed for lack of subject matter jurisdiction. Moreover, Plaintiffs' motion fails to establish their entitlement to extraordinary preliminary relief, as Plaintiffs are unlikely to succeed on the merits of their claims and the balance of equities counsels in favor of denying Plaintiffs' motion for injunctive relief. A proposed order is attached hereto.

Dated: August 15, 2022

Respectfully Submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

BRIAN D. NETTER
Deputy Assistant Attorney General

JENNIFER D. RICKETTS
Director, Federal Programs Branch

ERIC B. BECKENHAUER
Assistant Branch Director

/s/ Christopher R. Healy

CHRISTOPHER R. HEALY

ALEXANDER N. ELY

KATE TALMOR

Trial Attorneys

United States Department of Justice

Civil Division, Federal Programs Branch

1100 L Street NW, Washington, DC 20005

Tel: (202) 514-8095; Fax: (202) 616-8470

Christopher.Healy@usdoj.gov

alexander.n.ely@usdoj.gov

kate.talmor@usdoj.gov

Counsel for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

STATE OF TEXAS, *et al.*,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity as
Secretary of Health and Human Services, *et al.*,

Defendants.

Civil Action No. 5:22-cv-00185-H

[PROPOSED] ORDER GRANTING DEFENDANTS' MOTION TO DISMISS

Before the Court is Defendants' Motion to Dismiss for Lack of Subject Matter Jurisdiction. After due consideration of the briefing, arguments, evidence presented, and applicable law, the Court hereby GRANTS Defendants' Motion. SO ORDERED.

DATED: _____

JAMES WESLEY HENDRIX
UNITED STATES DISTRICT JUDGE