

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**STATE OF TENNESSEE, et
al.**

PLAINTIFFS

v.

CAUSE NO. 1:24cv161-LG-BWR

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

DEFENDANTS

SCHEDULING ORDER

BEFORE THE COURT is the [20] Motion for § 705 Relief and a Preliminary Injunction filed by Plaintiffs State of Tennessee, State of Mississippi, State of Alabama, State of Georgia, State of Indiana, State of Kansas, Commonwealth of Kentucky, State of Louisiana, State of Nebraska, State of Ohio, State of Oklahoma, State of South Carolina, State of South Dakota, Commonwealth of Virginia, and State of West Virginia. Plaintiffs ask the Court to delay the effective date and to enjoin Defendants Xavier Becerra, Chiquita Brooks-LaSure, Centers for Medicare and Medicaid Services, Melanie Fontes Rainer, and United States Department of Health and Human Services (“HHS”) from enforcing a new rule issued by HHS. *See* Nondiscrimination in Health Programs and Activities, 89 Fed. Reg. 37,522 (May 6, 2024). Plaintiffs claim they will be irreparably injured by the new rule, which takes effect on July 5, 2024. It seeks relief under 5 U.S.C. § 705 and Federal Rule of Civil Procedure 65.

Counsel for Defendants entered an appearance before Plaintiffs filed their [20] Motion, so Defendants were provided notice of the Motion via the Court's CM/ECF system. (ECF Nos. 18, 19). In their [20] Motion, Plaintiffs state that their attorneys have conferred with counsel for Defendants, who represented that Defendants "oppose this Motion and expedited consideration of the same." (Pls.' Mot. at 3, ECF No. 20). Plaintiffs "further requested that Defendants agree to a temporary stay of any enforcement of the 2024 Rule against the Plaintiff States until the end of July to provide additional time for briefing of the instant motion, but Defendants object to any such stay." (*Id.*).

To ensure the timely, efficient, and orderly resolution of Plaintiffs' motion, the Court sets the following deadlines. Defendants shall file their response to the motion and supporting memorandum brief by June 27, 2024. L.U. Civ. R. 7(b)(4). If Plaintiffs wish to file a reply, they should do so no later than July 1, 2024. Any party seeking relief from these deadlines must file a motion with the Court at least one business day prior to the deadline and demonstrate good cause for an extension. Any party seeking an extension must also advise the Court whether the request is opposed. L.U. Civ. R. 7(b)(10). Given the approaching July 5, 2024, effective date for the new rule, the parties should not assume the Court will grant requests for extensions absent a clear demonstration of good cause.

In their briefing, the parties are encouraged to address what effect, if any, the district court decision in *Neese v. Becerra*, 640 F. Supp. 3d 668 (N.D. Tex. 2022), and the appeal of that decision pending before the Fifth Circuit, No. 23-10078 (5th Cir.), have on the relief requested by the States in the pending motion.

The parties are reminded that under the Local Rules the movant's original and rebuttal memorandum briefs together may not exceed thirty-five pages, and the respondent's memorandum brief may not exceed thirty-five pages. L.U. Civ. R. 7(b)(5). If a party requires more pages to fully respond, it must seek leave of Court at least one business day prior to the party's filing deadline. Only reasonable requests will be granted.

IT IS THEREFORE ORDERED AND ADJUDGED that Defendants shall file their response to the [20] Motion for § 705 Relief and a Preliminary Injunction filed by Plaintiffs by **June 27, 2024**, and Plaintiffs shall file any reply by **July 1, 2024**.

SO ORDERED AND ADJUDGED this the 14th day of June, 2024.

s/ *Louis Guirola, Jr.*
Louis Guirola, Jr.
United States District Judge