

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION**

STATE OF LOUISIANA ET AL

CASE NO. 3:21-CV-03970

VERSUS

JUDGE TERRY A. DOUGHTY

XAVIER BECERRA ET AL

MAG. JUDGE KAYLA D. MCCLUSKY

MEMORANDUM ORDER

Pending before the Court is a Motion for a Stay Pending Appeal [Doc. No. 32] filed by Government Defendants¹ in this matter regarding the Preliminary Injunction issued in this proceeding on November 30, 2021 [Doc. No. 29] in favor of Plaintiff States².

Courts must consider four factors in assessing the propriety of granting a motion for stay pending appeal. Those are (1) the likelihood of prevailing on the merits of the appeal; (2) whether the movant will suffer irreparable damage absent a stay; (3) the harm that other parties will suffer if a stay is granted; and (4) the public interest. *Planned Parenthood of Greater Tex. Surgical Health Servs. v. Abbott*, 734 F.3d 406, 410 (5th Cir. 2013).

Considering the four factors, this Court, for the reason more fully set out in the Memorandum Ruling [Doc. No. 28], believes that the likelihood of Government Defendants' success on the merits is low.

This Court further finds Government Defendants will not suffer irreparable harm if a stay is not entered.

¹ The Government Defendants consist of Xavier Becerra, in his official capacity as Secretary of Health and Human Services, The U.S. Department of Health and Human Services ("DHH"), Chiquita Brooks-Lasure, in her official capacity as Administrator of the Center for Medicare and Medicaid Services ("CMS").

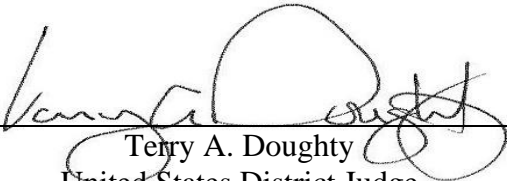
² Plaintiff States consist of Louisiana, Montana, Arizona, Alabama, Georgia, Idaho, Indiana, Mississippi, Oklahoma, South Carolina, Utah, West Virginia, Kentucky, and Ohio.

This Court further finds that other parties will be harmed if the stay is granted. As set forth in the Memorandum Ruling, Government Defendants' vaccine mandate requires over 10.3 million employees of Medicare and Medicaid healthcare providers to obtain the first COVID-19 vaccine by December 6, 2021, and the second COVID-19 vaccine by January 4, 2022. If a stay is entered, the unvaccinated employees (an estimated 2.4 million) would be required to either receive the vaccine or be terminated from their employment. A stay would defeat the purpose of the preliminary injunction.

This Court further finds that the public interest is in favor of Plaintiff States and against a stay. The public interest is better served by maintaining the liberty interests of employees who do not wish to take the COVID-19 vaccine, pending the final resolution of the matter.

For the reasons set forth herein, Government Defendants' Motion for a Stay Pending Appeal [Doc. No. 32] is **DENIED**.

MONROE, LOUISIANA, this 1st day of December 2021.


Terry A. Doughty
United States District Judge