

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

**BRAIDWOOD MANAGEMENT
INC. et al.,**

Plaintiffs,

v.

XAVIER BECERRA et al.,

Defendants.

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Civil Action No. 4:20-cv-00283-O

ORDER

Final Judgment in this case was entered on March 30, 2023 (ECF No. 114). Defendants filed their Notice of Appeal on March 31, 2023 (ECF No. 115). Even though they noticed an appeal on March 31, Defendants waited until April 12 to file their Motion for Partial Stay of Judgment Pending Appeal (ECF No. 121). And they imposed a deadline of April 20, 2023, for the Court to rule on this request. While the Court has a very crowded docket—including preparing to begin a complicated multimillion dollar personal injury trial on Monday—the Court expedited briefing on Defendants’ motion for a partial stay in an attempt to accommodate them. This expedited briefing schedule ultimately required Plaintiffs to seek an extension, and they have now responded (ECF No. 127) and Defendants have replied (ECF No. 128). The Court **DEFERS** ruling on Defendants’ motion while the Court considers the parties’ briefing on the merits.

Defendants urge the Court to grant an emergency stay of the first paragraph of item 3 of its Final Judgment (ECF No. 114) pending appeal because “[p]rotections that apply to more than 150 million Americans, requiring that lifesaving and other important medical coverage be provided without cost-sharing, will be disrupted, leading some Americans to needlessly suffer

from severe illness or die because they did not receive preventive care, or a disease was detected too late.”¹ However, published reports provide that relevant trade group representatives have informed Congress that “[t]he overwhelming majority [of the nation’s largest health insurers and trade associations] do not anticipate making changes to no-cost share preventive services, and do not expect disruptions in coverage of preventive care, while the case proceeds through the courts.” Stephanie Armour, *Most Major Insurers to Continue Preventive Care Services*, THE WALL STREET JOURNAL, Apr. 20, 2023, <https://www.wsj.com/articles/most-major-insurers-to-continue-preventive-care-services-a205675c> (citing April 19, 2023 letter to Congressional leaders from healthcare associations regarding coverage of preventive services).

Given this information, the Court **ORDERS** Defendants—as soon as practical—to (1) address their commitment to the assertions that, absent an emergency stay pending appeal, more than 150 million Americans’ preventive care services coverage will be disrupted; and (2) explain what evidence they have that insureds will lose their coverage as suggested in Defendants’ briefing. The Court will take this information into consideration when evaluating the merits of Defendants’ request for emergency relief and whether they have carried their burden to justify this Court’s discretionary imposition of a stay pending appeal.

As previously stated, the Court will take up Defendants’ motion as expeditiously as possible, while attending to other pressing matters, in an attempt to accommodate their emergency request. However, if Defendants must seek emergency relief from the Fifth Circuit before this Court can resolve the motion to stay, Defendants are within their right to do so.

SO ORDERED this 20th day of April, 2023.


Reed O'Connor
UNITED STATES DISTRICT JUDGE

¹ Def.’s Reply 1, ECF No. 128.