

CLOSED

U.S. District Court
United States District Court for the Western District of Washington (Seattle)
CIVIL DOCKET FOR CASE #: 2:20-cv-01105-JLR

State of Washington v. United States Department of
Health and Human Services et al
Assigned to: Judge James L. Robart
Cause: 05:551 Administrative Procedure Act

Date Filed: 07/16/2020
Date Terminated: 09/09/2020
Jury Demand: None
Nature of Suit: 899 Other Statutes:
Administrative Procedures
Act/Review or Appeal of Agency
Decision
Jurisdiction: U.S. Government
Defendant

Plaintiff

State of Washington

represented by **Brian J Sutherland**
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V.

Defendant

**United States Department of
Health and Human Services**

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Defendant

Alex M Azar
*in his official capacity as the
Secretary of the United States
Department of Health and Human
Services*

represented by **Liam Holland**
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William Kerwin Lane , III
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Amicus

Northwest Health Law Advocates

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Amicus

C. P.
*by and through his parents, P.P. and
N.P.*

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Amicus

M. D.
*by and through her parents, C.D.
and A.D.*

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House of Representatives

represented by **Douglas Neal Letter**
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Amicus

Local Governments

*City of Everett, King County and
Public Health, Seattle & King
County, the City of Seattle, and
Tacoma, Washington*

represented by **Lorraine Alofa Van Kirk**
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Amicus

National Health Law Program
et al.

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Date Filed	#	Docket Text
07/16/2020	<u>1</u>	COMPLAINT against All Defendants (Receipt # AWAADC-6469413), filed by State of Washington. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons, # <u>3</u> Summons)(Luna, Neal) (Entered: 07/16/2020)
07/16/2020	<u>2</u>	NOTICE of Appearance by attorney Marsha J. Chien on behalf of Plaintiff State of Washington. (Chien, Marsha) (Entered: 07/16/2020)
07/16/2020	<u>3</u>	NOTICE of Appearance by attorney Brian J Sutherland on behalf of Plaintiff State of Washington. (Sutherland, Brian) (Entered: 07/16/2020)
07/16/2020	<u>4</u>	MOTION for Preliminary Injunction , filed by Plaintiff State of Washington. Oral Argument Requested. (Attachments: # <u>1</u> Proposed Order) Noting Date 8/7/2020, (Chien, Marsha) (Entered: 07/16/2020)
07/16/2020	<u>5</u>	INDEX LIST re <u>4</u> MOTION for Preliminary Injunction re <u>6</u> Declaration; <u>7</u> Declaration; <u>8</u> Declaration; <u>9</u> Declaration; <u>10</u> Declaration; <u>11</u> Declaration; <u>12</u> Declaration; <u>13</u> Declaration; <u>14</u> Declaration; <u>15</u> Declaration; <u>16</u> Declaration; <u>17</u> Declaration; <u>18</u> Declaration; <u>19</u> Declaration; <u>20</u> Declaration; <u>21</u> Declaration; <u>22</u> Declaration Declaration Index List by Plaintiff State of Washington (Chien, Marsha) Modified on 7/20/2020. Added links to declaration(s) and updated title to more accurately reflect the type of pleading filed. (ST) (Entered: 07/16/2020)

07/16/2020	<u>6</u>	DECLARATION of Karter Booher filed by Plaintiff State of Washington re <u>4</u> MOTION for Preliminary Injunction (Chien, Marsha) (Entered: 07/16/2020)
07/16/2020	<u>7</u>	DECLARATION of David Iseminger filed by Plaintiff State of Washington re <u>4</u> MOTION for Preliminary Injunction (Chien, Marsha) (Entered: 07/16/2020)
07/16/2020	<u>8</u>	DECLARATION of Brandon Knox filed by Plaintiff State of Washington re <u>4</u> MOTION for Preliminary Injunction (Chien, Marsha) (Entered: 07/16/2020)
07/16/2020	<u>9</u>	DECLARATION of Beth Krehbiel filed by Plaintiff State of Washington re <u>4</u> MOTION for Preliminary Injunction (Chien, Marsha) (Entered: 07/16/2020)
07/16/2020	<u>10</u>	DECLARATION of Myron Bradford Mike Kreidler filed by Plaintiff State of Washington re <u>4</u> MOTION for Preliminary Injunction (Chien, Marsha) (Entered: 07/16/2020)
07/16/2020	<u>11</u>	DECLARATION of Everett Maroon filed by Plaintiff State of Washington re <u>4</u> MOTION for Preliminary Injunction (Chien, Marsha) (Entered: 07/16/2020)
07/16/2020	<u>12</u>	DECLARATION of Jason McGill filed by Plaintiff State of Washington re <u>4</u> MOTION for Preliminary Injunction (Chien, Marsha) (Entered: 07/16/2020)
07/16/2020	<u>13</u>	DECLARATION of Bill Moss filed by Plaintiff State of Washington re <u>4</u> MOTION for Preliminary Injunction (Chien, Marsha) (Entered: 07/16/2020)
07/16/2020	<u>14</u>	DECLARATION of Thea N. Mounts filed by Plaintiff State of Washington re <u>4</u> MOTION for Preliminary Injunction (Chien, Marsha) (Entered: 07/16/2020)

07/16/2020	<u>15</u>	DECLARATION of Kathy L. Oline filed by Plaintiff State of Washington re <u>4</u> MOTION for Preliminary Injunction (Chien, Marsha) (Entered: 07/16/2020)
07/16/2020	<u>16</u>	DECLARATION of David Reed filed by Plaintiff State of Washington re <u>4</u> MOTION for Preliminary Injunction (Chien, Marsha) (Entered: 07/16/2020)
07/16/2020	<u>17</u>	DECLARATION of Michele Roberts filed by Plaintiff State of Washington re <u>4</u> MOTION for Preliminary Injunction (Chien, Marsha) (Entered: 07/16/2020)
07/16/2020	<u>18</u>	DECLARATION of Kenneth Shulman filed by Plaintiff State of Washington re <u>4</u> MOTION for Preliminary Injunction (Chien, Marsha) (Entered: 07/16/2020)
07/16/2020	<u>19</u>	DECLARATION of Jessica Todorovich filed by Plaintiff State of Washington re <u>4</u> MOTION for Preliminary Injunction (Chien, Marsha) (Entered: 07/16/2020)
07/16/2020	<u>20</u>	DECLARATION of Dr. Chelsea Unruh filed by Plaintiff State of Washington re <u>4</u> MOTION for Preliminary Injunction (Chien, Marsha) (Entered: 07/16/2020)
07/16/2020	<u>21</u>	DECLARATION of Elayne Wylie filed by Plaintiff State of Washington re <u>4</u> MOTION for Preliminary Injunction (Chien, Marsha) (Entered: 07/16/2020)
07/16/2020	<u>22</u>	DECLARATION of Daniel Zeitlin filed by Plaintiff State of Washington re <u>4</u> MOTION for Preliminary Injunction (Chien, Marsha) (Entered: 07/16/2020)
07/17/2020	<u>23</u>	CERTIFICATE OF SERVICE by Plaintiff State of Washington (Luna, Neal) (Entered: 07/17/2020)
07/20/2020		Judge James L. Robart added. (ST) (Entered: 07/20/2020)
07/20/2020	<u>24</u>	Summons(es) Electronically Issued as to defendant(s) Alex M Azar, United States Department of Health and Human Services (Attachments: # <u>1</u> Summons)(ST) (Entered: 07/20/2020)

07/20/2020	<u>25</u>	CERTIFICATE OF SERVICE re summons; served upon Defendants via certified mail; sent on 7/20/2020 by Plaintiff State of Washington (Luna, Neal) Modified on 7/21/2020 to include party and date summons mailed (PM). (Entered: 07/20/2020)
07/20/2020	<u>26</u>	NOTICE TO FILER: re <u>1</u> Complaint. Notice of Filing Deficiency ** Action Required ** See attached letter for more information and instructions. Notice of Related Case must be filed by 7/27/2020. (ST) Modified on 7/21/2020. See docket <u>27</u> . (ST) (Entered: 07/20/2020)
07/21/2020	<u>27</u>	NOTICE TO FILER: re <u>1</u> Complaint. ** Reminder** Documents omitted See attached letter for more information and instructions. NOTE: Please disregard <u>26</u> Notice to Filer as it did not include the correct instructions. (ST) (Entered: 07/21/2020)
07/21/2020		***Deadlines/Hearings terminated re [26] Notice to Filer. (ST) (Entered: 07/21/2020)
07/21/2020	<u>28</u>	NOTICE of Pendency of Other Action ; filed by Plaintiff State of Washington. (Luna, Neal) (Entered: 07/21/2020)
07/22/2020	<u>29</u>	CERTIFICATE OF SERVICE by Plaintiff State of Washington re <u>28</u> Notice of Pendency of Other Action (Luna, Neal) (Entered: 07/22/2020)
07/29/2020	<u>30</u>	MOTION for Leave <i>Motion For Expedited Leave To File Amicus Curiae Brief</i> , filed by Amicus Parties Northwest Health Law Advocates, C. P., M. D.. (Attachments: # <u>1</u> Appendix A, # <u>2</u> Proposed Order) Noting Date 8/7/2020, (Hamburger, Eleanor) (Entered: 07/29/2020)
07/29/2020	<u>31</u>	DECLARATION of Eleanor Hamburger filed by Amicus Parties M. D., Northwest Health Law Advocates, C. P. re <u>30</u> MOTION for Leave <i>Motion For Expedited Leave To File Amicus Curiae Brief</i> (Hamburger, Eleanor) (Entered: 07/29/2020)

07/29/2020	<u>32</u>	Redacted DECLARATION of P.P. filed by Amicus Parties M. D., Northwest Health Law Advocates, C. P. re <u>30</u> MOTION for Leave <i>Motion For Expedited Leave To File Amicus Curiae Brief</i> (Hamburger, Eleanor) (Entered: 07/29/2020)
07/29/2020	<u>33</u>	Redacted DECLARATION of C.D. filed by Amicus Parties M. D., Northwest Health Law Advocates, C. P. re <u>30</u> MOTION for Leave <i>Motion For Expedited Leave To File Amicus Curiae Brief</i> (Hamburger, Eleanor) (Entered: 07/29/2020)
07/29/2020		Attorney Eleanor Hamburger added as counsel for M. D., Northwest Health Law Advocates, and C. P. per <u>30</u> MOTION for Leave <i>Motion For Expedited Leave To File Amicus Curiae Brief</i> . (PM) (Entered: 07/29/2020)
07/29/2020	<u>34</u>	DECLARATION of Janet Varon filed by Amicus Parties M. D., Northwest Health Law Advocates, C. P. re <u>30</u> MOTION for Leave <i>Motion For Expedited Leave To File Amicus Curiae Brief</i> (Hamburger, Eleanor) (Entered: 07/29/2020)
07/29/2020	<u>35</u>	NOTICE that the following is RE-NOTED: <u>4</u> MOTION for Preliminary Injunction . Filed by Plaintiff State of Washington. Noting Date 8/14/2020, (Sutherland, Brian) (Entered: 07/29/2020)
07/29/2020	<u>36</u>	NOTICE that the following is RE-NOTED: <u>30</u> MOTION for Leave <i>Motion For Expedited Leave To File Amicus Curiae Brief</i> . Filed by Amicus Parties M. D., Northwest Health Law Advocates, C. P.. Noting Date 8/14/2020, (Hamburger, Eleanor) (Entered: 07/29/2020)
07/29/2020	<u>37</u>	DECLARATION of Service filed by Amicus Parties M. D., Northwest Health Law Advocates, C. P. re <u>30</u> MOTION for Leave <i>Motion For Expedited Leave To File Amicus Curiae Brief</i> (Hamburger, Eleanor) (Entered: 07/29/2020)
08/03/2020	<u>38</u>	REQUEST <i>for Remote Oral Argument Setting</i> by Plaintiff State of Washington re <u>4</u> MOTION for Preliminary Injunction (Sutherland, Brian) (Entered: 08/03/2020)

08/03/2020	<u>39</u>	Agreed MOTION for Leave to File <i>Brief Amicus Curiae in Support of Plaintiff</i> , filed by Amicus House of Representatives. (Attachments: # <u>1</u> Exhibit Proposed Brief Amicus Curiae, # <u>2</u> Proposed Order) Noting Date 8/3/2020, (Letter, Douglas) (Entered: 08/03/2020)
08/04/2020		Attorney Douglas Neal Letter added as counsel for House of Representatives per <u>39</u> Agreed MOTION for Leave to File <i>Brief Amicus Curiae in Support of Plaintiff</i> . (PM) (Entered: 08/04/2020)
08/05/2020	<u>40</u>	NOTICE of Appearance by attorney Erica R. Franklin on behalf of Plaintiff Amicus Curiae Local Governments. (Franklin, Erica) (Entered: 08/05/2020)
08/05/2020	<u>41</u>	APPLICATION OF ATTORNEY Lorraine Van Kirk FOR LEAVE TO APPEAR PRO HAC VICE for Plaintiff Amicus Curiae Local Governments (Fee Paid) Receipt No. AWAWDC-6511801 (Franklin, Erica) (Entered: 08/05/2020)
08/05/2020	42	ORDER re <u>41</u> Application for Leave to Appear Pro Hac Vice. The Court ADMITS Attorney Lorraine Alofa Van Kirk for Plaintiff Amicus Curiae Local Governments, by Clerk William M McCool. No document associated with this docket entry, text only. <i>NOTE TO COUNSEL: Local counsel agrees to sign all filings and to be prepared to handle the matter, including the trial thereof, in the event the applicant is unable to be present on any date scheduled by the court, pursuant to LCR 83.1(d).</i> (DS) (Entered: 08/05/2020)
08/07/2020	<u>43</u>	NOTICE of Appearance by attorney Lorraine Alofa Van Kirk on behalf of Plaintiff Amicus Curiae Local Governments. (Van Kirk, Lorraine) (Entered: 08/07/2020)
08/07/2020	<u>44</u>	MINUTE ORDER re Parties' <u>38</u> Joint Request for remote oral argument setting re <u>4</u> MOTION for Preliminary Injunction : Motion Hearing set for 8/14/2020 at 02:00 PM via via Zoom videoconference before Judge James L. Robart. The State of Washington's reply brief on its motion for a preliminary injunction shall be due by 4:30 PM PDT on Thursday, August 13, 2020. Authorized by Judge James L. Robart. (LH) (Entered: 08/07/2020)
08/07/2020	<u>45</u>	APPLICATION OF ATTORNEY Abigail Coursolle FOR LEAVE TO APPEAR PRO HAC VICE for Amicus National Health Law

		Program (Fee Paid) Receipt No. AWAWDC-6517541 (Hamburger, Eleanor) (Filed by Lowney, Eric)Modified on 8/10/2020 (DS). (Entered: 08/07/2020)
08/07/2020	<u>46</u>	MOTION for Leave to File <i>Amicus Curie Brief</i> , filed by Plaintiff Amicus Curiae Local Governments. (Attachments: # <u>1</u> Proposed Order)(Van Kirk, Lorraine) (Entered: 08/07/2020)
08/07/2020	<u>47</u>	<i>Amicus Curiae</i> BRIEF by Plaintiff Amicus Curiae Local Governments (Van Kirk, Lorraine) (Entered: 08/07/2020)
08/10/2020	<u>48</u>	NOTICE of Appearance by attorney Eric D Lowney on behalf of Amicus National Health Law Program. (Lowney, Eric) (Entered: 08/10/2020)
08/10/2020	<u>49</u>	ORDER granting Amici NoHLA, C.P., and M.D.'s <u>30</u> Motion for Leave Expedited Leave to File Amicus Curiae Brief. The amicus curiae brief of NoHLA, C.P., and M.D., shall be filed within one court day of this Order. Signed by Judge James L. Robart.(LH) (Entered: 08/10/2020)
08/10/2020	<u>50</u>	ORDER granting Agreed Parties' <u>39</u> Motion for Leave to File Brief of U.S. House of Representatives as Amicus Curiae in support of Plaintiffs. Signed by Judge James L. Robart.(LH) (Entered: 08/10/2020)
08/10/2020	<u>51</u>	ORDER granting Local Governments' <u>46</u> Motion for Leave to File Amicus Curiae Brief by Local Government. The amicus curiae brief of Local Government Amici shall be filed the date of this Order. Signed by Judge James L. Robart.(LH) (Entered: 08/10/2020)
08/10/2020	<u>52</u>	<i>Amici Curiae Northwest Health Law Advocates', C.P.'s and M.D.'s</i> BRIEF re <u>4</u> MOTION for Preliminary Injunction by Amicus Parties M. D., Northwest Health Law Advocates, C. P. (Hamburger, Eleanor) (Entered: 08/10/2020)
08/10/2020	53	ORDER re <u>45</u> Application for Leave to Appear Pro Hac Vice. The Court ADMITS Attorney Abigail Coursolle for Amicus National Health Law Program, by Clerk William M McCool. No document associated with this docket entry, text only. <i>NOTE TO COUNSEL: Local counsel agrees to sign all filings and to be prepared to handle the matter, including the trial thereof, in the event the applicant is unable to be present on any date</i>

		<i>scheduled by the court, pursuant to LCR 83.1(d).(DS)</i> (Entered: 08/10/2020)
08/10/2020	54	NOTICE of Appearance by attorney Abigail Coursolle on behalf of Amicus National Health Law Program. (Coursolle, Abigail) (Entered: 08/10/2020)
08/10/2020	55	NOTICE of Appearance by attorney William Kerwin Lane, III on behalf of Defendants Alex M Azar, United States Department of Health and Human Services. (Lane, William) (Entered: 08/10/2020)
08/10/2020	56	RESPONSE, by Defendants Alex M Azar, United States Department of Health and Human Services, to 4 MOTION for Preliminary Injunction . (Lane, William) (Entered: 08/10/2020)
08/10/2020	57	MOTION for Leave to File <i>Brief of Amicus Curiae</i> , filed by Amicus National Health Law Program. (Attachments: # 1 Exhibit Proposed Brief, # 2 Exhibit Exhibit to Proposed Brief, # 3 Proposed Order) Noting Date 8/10/2020, (Coursolle, Abigail) (Entered: 08/10/2020)
08/11/2020	58	NOTICE of Appearance by attorney Liam Holland on behalf of Defendants Alex M Azar, United States Department of Health and Human Services. (Holland, Liam) (Entered: 08/11/2020)
08/13/2020	59	REPLY, filed by Plaintiff State of Washington, TO RESPONSE to 4 MOTION for Preliminary Injunction (Sutherland, Brian) (Entered: 08/13/2020)
08/14/2020	60	ORDER granting Proposed Amici the National Health Law Program et al's 57 Motion for Leave to File an amicus curiae brief in support of Plaintiff State of Washington's Motion for Preliminary Injunction. The amicus curiae brief of the National Health Law Program et al. shall be filed within one court day of this Order. Signed by Judge James L. Robart.(PM) (Entered: 08/14/2020)
08/14/2020	61	MINUTE ENTRY for proceedings held before Judge James L. Robart - Dep Clerk: <i>Ashleigh Drecktrah</i> ; Pla Counsel: <i>Marsha Chien, Brian Sutherland</i> ; Def Counsel: <i>Liam Holland</i> ; CR: <i>Nickie Drury</i> ; Zoom Motion Hearing held on 8/14/2020. The court hears argument from counsel re 4 MOTION for Preliminary Injunction filed by Plaintiff State of Washington. The court takes

		the matter under advisement; written order to be issued. (AD) (Entered: 08/14/2020)
08/14/2020	<u>62</u>	ORDER re <u>4</u> MOTION for Preliminary Injunction. The court ORDERS both parties to submit supplemental briefing on the topics in this order by 10:00 AM PDT on Monday, August 17, 2020. Signed by Judge James L. Robart. (PM) (Entered: 08/14/2020)
08/14/2020	<u>63</u>	<i>Amicus</i> BRIEF by Amicus National Health Law Program (Coursolle, Abigail) (Entered: 08/14/2020)
08/17/2020	<u>64</u>	SUPPLEMENT re <u>4</u> MOTION for Preliminary Injunction by Plaintiff State of Washington (Chien, Marsha) (Entered: 08/17/2020)
08/17/2020	<u>65</u>	SUPPLEMENT <i>Memorandum</i> by Defendants Alex M Azar, United States Department of Health and Human Services (Holland, Liam) (Entered: 08/17/2020)
08/17/2020	<u>66</u>	TRANSCRIPT REQUEST by Plaintiff State of Washington for proceedings held on 08/14/2020, Requesting Attorney: Marsha J. Chien. (Chien, Marsha) (Entered: 08/17/2020)
08/18/2020	<u>67</u>	NOTICE of Decision in <i>Walker v. Azar</i> , No. 20-cv-02834 (EDNY) ; filed by Defendants Alex M Azar, United States Department of Health and Human Services. (Attachments: # <u>1</u> Exhibit)(Holland, Liam) (Entered: 08/18/2020)
08/18/2020	<u>68</u>	ORDER TO SHOW CAUSE re Plaintiff's <u>4</u> MOTION for Preliminary Injunction. The court ORDERS the parties to show cause regarding the impact, if any, that the Asapansa-Johnson Walker injunction against HHS has on Washington's motion for a preliminary injunction. Both parties shall submit their responses to this order to show cause by 5:00 p.m. PDT on Wednesday, August 26, 2020. Signed by Judge James L. Robart. (LH) (Entered: 08/18/2020)
08/20/2020	<u>69</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Zoom Preliminary Injunction Hearing held on 8/14/2020 before Judge James L. Robart. Parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days.

		Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Information regarding the policy can be found on the court's website at www.wawd.uscourts.gov. To purchase a copy of the transcript, contact court reporter Nickoline Drury, nickoline_drury@wawd.uscourts.gov, 206-370-8508. Release of Transcript Restriction set for 11/18/2020, (ND) (Entered: 08/20/2020)
08/26/2020	70	RESPONSE TO ORDER TO SHOW CAUSE by Plaintiff State of Washington re: 68 Order to Show Cause, (Attachments: # 1 Exhibit 1)(Sutherland, Brian) (Entered: 08/26/2020)
08/26/2020	71	MEMORANDUM filed by Defendants Alex M Azar, United States Department of Health and Human Services re 4 MOTION for Preliminary Injunction <i>Responding to the Court's Order to Show Cause</i> (Holland, Liam) (Entered: 08/26/2020)
08/28/2020	72	ORDER denying Plaintiff's 4 Motion for Preliminary Injunction. The court also ORDERS Washington to show cause within 10 days of the filing date of this order why this case should not be dismissed for lack of subject matter jurisdiction. Signed by Judge James L. Robart. (PM) (Entered: 08/28/2020)
09/08/2020	73	NOTICE of Voluntary Dismissal of case by Plaintiff State of Washington (Sutherland, Brian) (Entered: 09/08/2020)
09/09/2020		***Civil Case Terminated re 73 Notice of Voluntary Dismissal without prejudice. (LH) (Entered: 09/09/2020)

PACER Service Center			
Transaction Receipt			
10/01/2020 17:59:58			
PACER Login:	CRClearinghouse	Client Code:	Buday
Description:	Docket Report	Search Criteria:	2:20-cv-01105-JLR
Billable Pages:	7	Cost:	0.70

Exempt flag:	Not Exempt	Exempt reason:	Not Exempt
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