

JUN 23 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FOX INSURANCE COMPANY
INCORPORATED,

Plaintiff - Appellant,

v.

CENTERS FOR MEDICARE AND
MEDICAID SERVICES; et al.,

Defendants - Appellees.

No. 11-15847

D.C. No. 2:11-cv-00134-RJB

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Robert J. Bryan, District Judge, Presiding

Submitted June 15, 2011**

Before: CANBY, O'SCANNLAIN, and FISHER, Circuit Judges.

Fox Insurance Company Incorporated appeals the district court's denial of its request for a preliminary injunction requiring the Secretary of Health and

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Human Services to enter into a new Medicare Part D prescription drug provider contract with Fox, and to assign Fox new prescription drug beneficiaries.

We have jurisdiction under 28 U.S.C. § 1292(a)(1), and we affirm.

We express no view on the merits of the complaint. Our sole inquiry is whether the district court abused its discretion in denying preliminary injunctive relief. *The Lands Council v. McNair*, 537 F.3d 981, 986 (9th Cir. 2008); *see Winter v. Natural Resources Defense Council*, 129 S. Ct. 365, 374 (2008) (listing factors for district court to consider); *Sports Form, Inc. v. United Press Int'l, Inc.*, 686 F.2d 750, 752-53 (9th Cir. 1982) (explaining limited scope of review). We conclude the district court did not abuse its discretion. Accordingly, we affirm the district court's order denying the preliminary injunction.

Appellant's motion to expedite oral argument is denied as moot.

AFFIRMED.