No. 23-1275

IN THE

Supreme Court of the United States

EUNICE MEDINA, DIRECTOR,
SOUTH CAROLINA DEPARTMENT OF
HEALTH AND HUMAN SERVICES,

Petitioner,

v.

PLANNED PARENTHOOD SOUTH ATLANTIC, ET AL.,

Respondents.

**ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT**

BRIEF OF *AMICI CURIAE* LOCAL GOVERNMENTS AND LOCAL GOVERNMENT OFFICIALS IN SUPPORT OF RESPONDENTS

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STATEMENT OF INTEREST

Amici are cities, counties, and local government leaders from across the country.[1] *Amici* file this brief in furtherance of their shared interest in protecting the health of their residents and preserving access to essential reproductive and sexual healthcare. Local governments have an obligation and a right—long recognized by this Court—to safeguard the public health of their communities. In 1905, this Court acknowledged the important part local governments play in protecting their residents' well-being: "Upon the principle of self-defense, of paramount necessity, a community has the right to protect itself against an epidemic of disease which threatens the safety of its members." *Jacobson v. Massachusetts*, 197 U.S. 11, 27 (1905); *see also accord S. Bay United Pentecostal Church v. Newsom*, 140 S. Ct. 1613, 1613 (2020) (Mem.) (Roberts, C.J., concurring) (reaffirming the historical principle that municipalities have broad powers to combat the spread of communicable diseases). These sentiments make sense in historical context; the rise of city and county governments played a key role in the origin of public health initiatives in the United States.[2]

1. No counsel for a party authored this brief in whole or in part, and no party or counsel for a party made a monetary contribution intended to fund its preparation or submission. No person other than *Amici*'s counsel made a monetary contribution to the preparation or submission of this brief. A list of all *Amici* is available at Appendix A.

2. Suhas Gondi & Dave A. Chokshi, *Cities as Platforms for Population Health: Past, Present, and Future*, 101 Milbank Q. 242, 244 (2023), https://perma.cc/SQQ8-TJKK.

Some of *Amici*'s jurisdictions deliver healthcare services directly, acting as providers of last resort. Others focus on broad public health initiatives, such as public education campaigns and disease prevention. All *Amici* represent people who use Medicaid to access healthcare. Medicaid operates in all fifty states and is the largest source of funding for health-related services for low-income people across the country. All *Amici* also govern amidst a nationwide medical provider shortage.[3] In more than eighty percent of counties in America, residents lack sufficient access to pharmacies, primary care providers, and hospitals.[4] Over half of U.S. counties do not have a hospital that provides obstetrics care.[5]

Amici have a significant interest in protecting access to professionally competent medical care for their most vulnerable residents. By preserving patient access to qualified Medicaid providers, the Medicaid Act's free-choice-of-provider provision helps local governments foster healthy, thriving communities.

3. *See* Eli Y. Adashi et al., *The National Physician Shortage: The Imperative of Congressional Action*, 137 Am. J. Medicine 1030, 1030 (2024), https://perma.cc/W2DH-CVHW (noting that the National Center for Health Workforce Analysis of the Health Resources and Services Administration (HRSA) had projected a total national shortage of 57,259 physicians in 2025 which will only increase over time).

4. Kristy Wang, *The Hidden Health Crisis: America's Physician Shortage is Slowly Worsening*, Columbia Pol. Rev. (Feb. 12, 2024), https://perma.cc/Y8LA-DBCU.

5. *Nowhere to Go: Maternity Care Deserts Across the US*, March of Dimes (2024), https://perma.cc/9KD7-5Z8Q.

The arguments Petitioner advances in this case threaten to reduce the number of available Medicaid providers nationwide and undermine *Amici*'s ability to maintain public health. With fewer available providers, patients will face longer wait times or be forced to forego treatment altogether, harming community health. Additionally, many *Amici* are localities, or represent localities, that serve Medicaid patients directly through government-run hospital systems and clinics. When the number of willing and qualified Medicaid providers in their jurisdictions diminishes, *Amici*'s city- and county-funded providers are left to pick up the slack.

SUMMARY OF ARGUMENT

As a matter of statutory interpretation, the appropriate outcome of this case is clear. The individually focused language in the free-choice-of-provider provision demonstrates Congress's intent to give Medicaid patients the right to choose any qualified provider—and the option to use 42 U.S.C. § 1983 ("Section 1983") to protect that right. Without the recourse that a private right of action offers patients, the free-choice-of-provider provision is meaningless: States can ban providers from Medicaid for reasons unrelated to their qualifications and Medicaid patients lose access to healthcare.

A private right of action is essential to preserving actual choice. There is a scarcity of both primary care and OB-GYN Medicaid providers in many of *Amici*'s jurisdictions and nationwide. When a state, like South Carolina, improperly removes a provider from Medicaid on an ideological basis, it exacerbates this shortage and threatens public health. Insufficient access to Medicaid

providers will lead to poorer health outcomes among vulnerable people, increases in health disparities, and strains on local hospitals, clinics, and emergency services. Many new patients will turn to city- and county-run providers to fill the healthcare void, overwhelming government-run clinics and hospitals as well as the remaining local medical infrastructure. Construing the free-choice-of-provider provision to foreclose private enforcement would severely hinder the vital efforts *Amici* undertake every day to protect the health of their residents and communities.

ARGUMENT

I. WITHOUT A PRIVATE RIGHT OF ACTION UNDER SECTION 1983, THE FREE-CHOICE-OF-PROVIDER PROVISION IS MEANINGLESS AND STATES CAN ACT *ULTRA VIRES* TO LIMIT ACCESS TO QUALITY CARE

The Fourth Circuit correctly determined below that the Medicaid Act's free-choice-of-provider provision, 42 U.S.C. § 1396a(a)(23), unambiguously extends to Medicaid patients the right to any medically qualified provider of their choice. *Planned Parenthood S. Atl. v. Kerr*, 95 F.4th 152, 165 (4th Cir. 2024) ("*Kerr II*").[6] This was the correct result before the Supreme Court's ruling in *Health & Hosp. Corp. of Marion Cnty. v. Talevski*, 599 U.S. 166

6. Many circuits before it agreed. *See Planned Parenthood of Kan. v. Andersen*, 882 F.3d 1205, 1225–26 (10th Cir. 2018); *Planned Parenthood Ariz. Inc. v. Betlach*, 727 F.3d 960, 966 (9th Cir. 2013); *Planned Parenthood of Ind., Inc. v. Comm'r of Ind. State Dep't of Health*, 699 F.3d 962, 974 (7th Cir. 2012); *Harris v. Olszewski*, 442 F.3d 456, 461–62 (6th Cir. 2006).

(2023). *Planned Parenthood S. Atl. v. Kerr*, 27 F.4th 945, 957 (4th Cir. 2022) ("*Kerr I*") *vacated*, 143 S. Ct. 2633 (2023). And it remains so following the *Talevski* decision. *Kerr II*, 95 F.4th at 165.

The language of the free-choice-of-provider provision clearly grants Medicaid patients the right to choose their providers: state plans under the Medicaid Act must "provide that . . . *any individual eligible* for medical assistance . . . *may obtain* such assistance from *any* institution, agency, community pharmacy, or person, *qualified* to perform the service or services required . . . who undertakes to provide *him* such services[.]" 42 U.S.C. § 1396a(a)(23) (emphasis added). Under *Talevski*, a statute creates rights privately enforceable under Section 1983 if Congress "'unambiguously conferred' 'individual rights upon a class of beneficiaries' to which the plaintiff belongs." 599 U.S. at 183 (quoting *Gonzaga Univ. v. Doe*, 536 U.S. 273, 283, 285–86 (2002)).

That is the case here. The free-choice-of-provider provision focuses on "discrete beneficiaries," namely Medicaid eligible patients. *Kerr II*, 95 F.4th at 165; *see also Ball v. Rodgers*, 492 F.3d 1094, 1108 (9th Cir. 2007) ("While express use of the term 'individuals' (or 'persons' or similar terms) is not essential to finding a right for § 1983 purposes, usually such use is sufficient for that purpose."). Furthermore, under the Medicaid Act, a "[s]tate plan for medical assistance *must*" allow eligible individuals to obtain assistance from any qualified provider. 42 U.S.C. § 1396(a) (emphasis added). This kind of "'mandatory language'" emphasizes the creation of an individual right and establishes a private right of action. *Harris v. Olszewski*, 442 F.3d 456, 461 (6th Cir. 2006)

(citing *Westside Mothers v. Haveman*, 289 F.3d 852, 863 (6th Cir. 2002)).

Thus, under the Medicaid Act, states must allow Medicaid patients to obtain assistance from any professionally qualified provider. And patients may pursue a claim under Section 1983 if states interfere with their choice for any reason unrelated to qualification.

A. A Medical Provider's Decision to Provide Legal Abortion Services Is Not a Valid Reason for a State to Disqualify That Provider from Participating in Medicaid

The free-choice-of-provider provision requires state medical assistance plans to allow eligible individuals to choose their provider as long as that "institution, agency . . . or person" is "qualified to perform the service or services required." 42 U.S.C. § 1396a(a)(23)(A). Under the Medicaid Act, grounds that may make a provider unqualified include malfeasance such as financial fraud, medical malpractice, or a provider's lack of "ability to safely and professionally perform" the requested service. *Planned Parenthood S. Atl. v. Baker*, 941 F.3d 687, 705 (4th Cir. 2019) ("*Baker II*"); *see also Planned Parenthood of Ind., Inc. v. Comm'r of Ind. State Dep't of Health*, 699 F.3d 962, 968 (7th Cir. 2012) (finding that a provider is qualified if they are "capable of performing the needed medical services in a professionally competent, safe, legal, and ethical manner.").

Facing broad consensus on Planned Parenthood's ability to provide medical services in a competent, safe, and legal manner, the Petitioner in this case did not dispute

Planned Parenthood's professional qualifications below. *Planned Parenthood S. Atl. v. Baker*, 487 F. Supp. 3d 443, 447 (D.S.C. 2020) ("[T]here is no dispute as to whether Baker asserts PPSAT afforded less than adequate care to its patients. He does not."). Instead, South Carolina terminated Planned Parenthood's status as a qualified provider "'*solely* because it performed abortions outside of the Medicaid program.'" *Id.* (quoting *Baker II*, 941 F.3d at 692) (emphasis added). This decision was purely ideological: the purpose "was to prevent South Carolina from indirectly subsidizing the practice of abortion." *Kerr I*, 27 F.4th at 950. In this way, South Carolina flagrantly violated the Medicaid Act; Respondent Julie Edwards was not allowed her choice of a provider qualified to perform the service required.

B. Without Private Recourse for State Action, States Can Take Ideologically Motivated Actions that Exacerbate Medical Provider Shortages Across the Country and Contradict the Purpose of the Free-Choice-of-Provider Provision

Without a private right of action, a state can disqualify Medicaid providers for reasons unrelated to their qualifications and Medicaid patients lose access to healthcare. In a Texas case, the Fifth Circuit diverged from the majority of Courts of Appeal to hold that the free-choice-of-provider provision is not privately enforceable. *Planned Parenthood of Greater Tex. Family Planning & Preventative Health Servs. v. Kauffman*, 981 F.3d 347 (5th Cir. 2020). And the consequences have been significant.

Following this decision, Texas removed Planned Parenthood as a Medicaid provider. Consequently, patients

in Texas have faced increasing wait times to receive both routine and urgent reproductive healthcare.[7] For example, after losing Planned Parenthood as her provider, one patient had to wait six months for an appointment at a private OB-GYN clinic to receive screening for human papillomavirus (HPV).[8] This kind of delay is dangerous, as the sexually transmitted disease can lead to cancer and needs careful monitoring. In places such as Harris County, Texas, the "scarcity of places low-income patients can receive non-abortion services like cancer screenings" in the state creates a provider landscape almost impossible for Medicaid patients to navigate.[9]

Congress specifically aimed to address this scarcity problem by allowing patients to seek care from any professionally qualified provider. *Kerr II*, 95 F.4th at 169–70 ("Indeed, we are told that, if Planned Parenthood clinics in South Carolina were to be shuttered, other Medicaid-funded clinics in the state would be more hard-pressed to meet the demand in family planning care . . . . This is precisely the prospect Congress wished to avoid."). The free-choice-of-provider provision ensures that Medicaid patients can choose among providers competing to offer high quality services. *See President's Proposals for Revision in the Social Security System: Hearing on H.R. 5710 before the H. Comm. on Ways and Means*, 90th

7. Anna Chatillon, *Without Planned Parenthood, Texas Medicaid Patients Lose Access to Reproductive Care*, Pub. Health Post (Dec. 6, 2023), https://perma.cc/95A5-GX5A.

8. Shannon Najmabadi, *Low-income Texans struggle to find new doctors as state officials boot Planned Parenthood off Medicaid*, Tex. Trib. (Jan. 19, 2021), https://perma.cc/JQZ9-CQEY.

9. *Id.*

Cong. 1663 (1967) (statement of Dr. Charles L. Hudson, President, Am. Med. Ass'n). It serves to "protect the right of beneficiaries to select the participating provider of their choice, regardless of state efforts to steer patients toward certain providers or to deny them access to qualified providers that satisfy all reasonable program requirements."[10]

Without a private right of action, patients do not have an avenue for recourse and the Medicaid Act's free-choice-of-provider provision becomes pointless. While the Act contemplates some avenues for its own enforcement, none of them allows Medicaid beneficiaries to challenge disqualification of their providers. *Kerr II*, 95 F.4th at 168–69 ("There are three possible avenues for enforcement in the Act: the Secretary of Health and Human Service may curtail Medicaid funds to the state, 42 U.S.C. §§ 1316(a), 1396c; 42 C.F.R. § 430.12; providers may challenge their termination via state administrative processes, 42 U.S.C. § 1396a(a)(4); 42 C.F.R. § 1002.213; and Medicaid beneficiaries may challenge claim denials via the same processes, 42 U.S.C. § 1396a(a)(3). Note, however, that there is no way for Medicaid beneficiaries to challenge disqualifications of their preferred providers through the administrative scheme.").

Reading a private right of action out of the free-choice-of-provider provision would be contrary to Congress's

10. Lara Cartwright-Smith & Sara Rosenbaum, *Medicaid's Free-Choice-of-Provider Protections in a Family Planning Context:* Planned Parenthood Federation of Indiana v. Commissioner of the Indiana State Department of Health, 127 Pub. Health Reps. 119, 121 (Jan.–Feb. 2012), https://perma.cc/USD2-5E7A.

plain language and intent. It would also leave *Amici* scrambling to respond to the fallout of illegal eliminations of Medicaid providers. As discussed *infra*, if states are allowed to disregard the statute with impunity, local governments will struggle to meet their public health objectives and keep their residents healthy and safe.

II. BY PRESERVING ACCESS TO QUALIFIED MEDICAID PROVIDERS, THE FREE-CHOICE-OF-PROVIDER PROVISION IMPROVES RESIDENT HEALTH OUTCOMES AND STRENGTHENS LOCAL ECONOMIES

Local governments have a responsibility to protect the health, safety, and general welfare of their residents, including through closing racial and economic inequalities in healthcare access, health outcomes, and economic opportunity. As a foundational safety net for low-income people and families across the country, Medicaid plays a critical role in helping local governments achieve these goals. Over seventy-two million people are enrolled in Medicaid nationwide,[11] including many of *Amici*'s most vulnerable residents who rely on Medicaid to access healthcare. To help illustrate the scale and scope of impact on *Amici* local governments, as of August 2022, almost one million of Harris County's residents received coverage through Medicaid. In that same year, 35.4 percent of the population of New Haven, Connecticut had Medicaid coverage.[12] Across the country, Medicaid coverage creates

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11. Ctrs. for Medicare & Medicaid Servs., *October 2024 Medicaid & CHIP Enrollment Data Highlights,* Medicaid.gov, https://perma.cc/3L9U-ZBFY (last updated Jan. 15, 2025).

12. *New Haven, CT,* DATA USA, https://perma.cc/3SDK-Y4KH (last visited Mar. 5, 2025).

"broad access to medical care[,]" regardless of a patient's financial circumstances. *Planned Parenthood of Ind.*, 699 F.3d at 978.

A. Patient Access to Healthcare Through Medicaid Coverage Improves Individual and Community Health Outcomes

Medicaid providers are critically important providers of certain forms of care, including reproductive health services, services for children and families, and early detection of cancer. Medicaid covers more than sixteen million women of reproductive age[13] and is the largest source of public funding for family planning services—Medicaid funds four in ten births in the United States.[14] This number is even higher for babies of color.[15]

Countless studies show that access to care through Medicaid coverage leads to improved health outcomes.[16] Patients without insurance are more likely to postpone

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13. *Medicaid*, Am. Coll. of Obstetricians & Gynecologists, https://perma.cc/E4PN-XS2Y (last visited Mar. 5, 2025).

14. Madeline Guth & Karen Diep, *What Does the Recent Literature Say About Medicaid Expansion?: Impacts on Sexual and Reproductive Health*, Kaiser Fam. Found. (June 29, 2023), https://perma.cc/468X-FRYN.

15. Anna Bernstein, et al., *Medicaid Has a Critical Role in More Equitable Maternal Health Care*, The Century Found. (Sept. 10, 2024), https://perma.cc/JZ6X-LX42.

16. Julia Paradise & Rachel Garfield, *What Is Medicaid's Impact on Access to Care, Health Outcomes, and Quality of Care? Setting the Record Straight on the Evidence*, Kaiser. Fam. Found. (Aug. 2, 2013), https://perma.cc/7ZYA-MEFP.

or forgo necessary healthcare.[17] Patients covered by Medicaid, on the other hand, feel empowered to seek care. This is certainly the case with Medicaid coverage of sexual and reproductive healthcare, which Planned Parenthood provides.[18] By seeking timely care, postpartum Medicaid patients see lower maternal mortality[19] and fewer complications.[20] Medicaid coverage also leads to earlier detection of a number of diseases and medical conditions, including cancer.[21] Early detection, in turn, improves

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17. Akash Pillai, et al., *Medicaid Efforts to Address Racial Health Disparities*, Kaiser Fam. Found. (July 1, 2024), https://perma.cc/PN23-32JH.

18. As just one example, Medicaid coverage increases identification of undiagnosed HIV and use of HIV prevention medication, Bita F. Farkhad, et al., *Effect of Medicaid Expansions on HIV Diagnoses & Pre-Exposure Prophylaxis Use*, 60(3) Am. J. of Preventative Med. 335 (Jan. 2023), https://perma.cc/MC8E-EPKA, leading to improvements in care for sexually transmitted diseases. *See, e.g.*, Francis Lee, et al., *Expanding Medicaid to Reduce Human Immunodeficiency Virus Transmission in Houston, Texas*, 61(1) Med. Care 12 (Jan. 2023), https://perma.cc/9ZKF-HZXC.

19. Erica L. Eliason, *Adoption of Medicaid Expansion Is Associated with Lower Maternal Mortality*, 30-3 Women's Health Issues 147 (Jan. 23, 2020) https://perma.cc/Q79B-VFPQ; *see* Jean Guglielminotti, et al., *The 2014 New York State Medicaid Expansion and Severe Maternal Morbidity During Delivery Hospitalizations*, 133(2) Int'l Anesthesia Rsch. Soc'y 340 (Aug. 2021), https://perma.cc/PXP5-HP38.

20. Maria W. Steenland & Laura R. Wherry, *Medicaid Expansion Led to Reductions in Postpartum Hospitalizations*, 42(1) Health Affs. (Jan. 2023), https://perma.cc/5YSY-ANMB.

21. *See Early and Periodic Screening, Diagnostic, and Treatment*, Medicaid.gov, https://perma.cc/ZZ97-84QG (last

health outcomes for afflicted patients and is central to effective management of public health risks.[22]

If, for example, Planned Parenthood was disqualified from seeing Medicaid patients in Ohio, the city of Columbus anticipates significant negative impacts on population health. Contraception rates would likely decrease, impacting infant and maternal mortality. Outcomes for diseases such as syphilis could worsen due to limited testing. Columbus already experienced these negative impacts in 2019, when Planned Parenthood chose not to participate in Title X following the implementation of an abortion gag rule. The city expects the same would be true if Planned Parenthood were excluded from Medicaid.

Medicaid coverage also reduces health disparities across racial and socioeconomic lines.[23] Racial and ethnic

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visited Mar. 6, 2025) (discussing the importance of Medicaid coverage for early vision, hearing, and other screening of children and adolescents under twenty-one years old); Cathy J. Bradley, et al., *Role of Medicaid in Early Detection of Screening-Amenable Cancers*, 31(6) Cancer Epidemiol Biomarkers Prevention 1202 (June 1, 2022), https://perma.cc/M2AS-YHGH (discussing the importance of Medicaid coverage of early breast and cervical cancer screening).

22. Bruria Adini, et al., *Earlier Detection of Public Health Risks – Health Policy Lessons for Better Compliance with the International Health Regulations (IHR 2005): Insights from Low-, Mid- and High-income Countries*, 123(10) Health Pol'y 941, 942 (June 18, 2019), https://perma.cc/NB6N-9XWT/.

23. Yilu Lin, et al., *Effects of Medicaid Expansion on Poverty Disparities in Health Insurance Coverage*, 20 Int'l J. for Equity in Health 1, 2 (July 26, 2021), https://perma.cc/3ZBD-ZFXN; *Medicaid Expansion Helps Address Health Disparities*,

minorities, rural, low-income, and other underserved populations experience increased obstacles to accessing healthcare and poorer health outcomes.[24] These differences are particularly acute in the context of reproductive healthcare, which includes prenatal and postnatal care, contraceptive use and access, family planning, testing and treatment for sexually transmitted infections, and access to obstetrics and gynecological services.[25] *Amici*, like many local governments and representatives, are committed to pursuing equity between groups with respect to healthcare access and health outcomes.

For *Amici*, preserving access to all qualified practitioners willing and able to serve Medicaid patients is critical to their work advancing health equity and maintaining healthy communities through direct care, health monitoring, disease containment, and public education.

B. Patient Access to Healthcare Through Medicaid Coverage Strengthens Local Economies

The benefits to local governments of patient access to Medicaid providers extends beyond resident health:

Medicaid.gov, https://perma.cc/EX4P-JSUR (last visited Mar. 6, 2025).

24. *Health Disparities Overview*, Nat'l Conf. of State Legislatures, https://perma.cc/27DE-5NCC (last updated May 10, 2021).

25. Madeline Y. Sutton, et al., *Racial and Ethnic Disparities in Reproductive Health Services and Outcomes, 2020*, 137(2) Obstetrics & Gynecology 225 (Feb. 2021), https://perma.cc/X3AG-PSYD.

healthier local populations lead to healthier local economies.[26] Increased access to healthcare for community members and local employees improves economic and business conditions in *Amici*'s jurisdictions. A healthy local population "is a crucial driver of labor productivity, capital investment, and consistent economic growth."[27] Moreover, better employee health mitigates costs of doing business such as "health care costs, human capital costs . . . and productivity costs[.]"[28] Medicaid funding also stimulates local healthcare sectors in particular by "supporting the jobs, income, and purchases associated with carrying out health care services."[29]

In addition, effective public health efforts, including offering Medicaid coverage, can "produce powerful

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26. *A Healthy Community = A Strong Local Economy*, Int'l City/Cnty. Mgmt. Ass'n (Sept. 15, 2014), https://perma.cc/YV7A-JRUZ ("Engagement with public health to achieve common goals can benefit residents, business and industry, and local governments as they collaborate to build healthier and more economically vibrant communities.").

27. Shaojie Huang, et al., *Does Public Health Influence Economic Performance? Investigating the Role of Governance and Greener Energies for the Case of China*, 10 Frontiers in Pub. Health 1, 2 (Mar. 29, 2022), https://perma.cc/83V6-A6MD.

28. Ursula E. Bauer, *Community Health and Economic Prosperity: An Initiative of the Office of the Surgeon General*, 134(5) Pub. Health Reps. 472, 474 (Aug. 16, 2019), https://perma.cc/GC6R-9FFG.

29. *The Role of Medicaid in State Economies: A Look at the Research*, Kaiser Fam. Found. (Apr. 2004), https://perma.cc/XZT3-95L3.

returns on investment (ROI) for local economies."[30] Access to healthcare reduces local government spending. For example, when community members receive timely and quality mental and behavioral health services, local governments, and other local actors, spend less on crisis interventions and emergency response.[31] Furthermore, ensuring access to healthcare for children has "been found to improve educational outcomes," contributing "to higher rates of employment and earnings as adults."[32] This leads to "increased tax revenues and reduced spending on public assistance programs."[33]

Ultimately, '"community health and prosperity are inextricably linked.'"[34] Increased access to care for Medicaid patients serves local governments not only by

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30. *Strengthening Economies Through Healthy Communities*, Nat. Ass'n of Cntys., https://perma.cc/UP68-ZJVH (last visited Mar. 6, 2025).

31. *See* Leighton Ku & Erin Brantley, *The Economic and Employment Effects of Medicaid Expansion Under the American Rescue Plan*, The Commonwealth Fund (May 20, 2021), https://perma.cc/5H6V-A9H7 ("[A]s Medicaid coverage rises and the number of uninsured falls, state and local governments can reduce the amount spent on charity or uncompensated care for those without insurance and for mental health and substance use services.").

32. Rose C. Chu, et al., *Medicaid: The Health and Economic Benefits of Expanding Eligibility*, Assistant Sec'y for Plan. and Evaluation 9 (Sept. 2024), https://perma.cc/UXT3-3WX2.

33. *Id.*

34. *RAC Introduction*, The Resilient Am. Cmtys. Network, https://perma.cc/WCP2-GWRL (last visited Mar. 10, 2025) (quoting the United States Surgeon General).

improving the individual and collective health of their residents but also by enabling them to maintain strong local economies.

III. ALLOWING STATES TO REMOVE PROVIDERS FROM MEDICAID FOR REASONS UNRELATED TO QUALIFICATION WOULD HAVE DETRIMENTAL IMPACTS TO ALREADY-STRAINED HEALTHCARE SYSTEMS AND OVERWHELM MUNICIPAL HEALTH DEPARTMENTS

As discussed *supra* in Section I, when a state has the power to unilaterally remove a provider from Medicaid on an unlawful ideological basis, patients such as Respondent Edwards lose access to quality care. This is detrimental for local public health systems and the national medical provider landscape.

A. There Are Already Few Qualified, Willing Medicaid Providers and Significant Shortages of Primary and Reproductive Healthcare Providers Across the Country

Low-cost or no-cost local government clinics and non-profit health centers are common and important Medicaid providers.[35] Yet these smaller, community-focused practices operate in a shortage of primary care physicians felt by all patients across the country. Roughly

35. Anna S. Sommers, et al., *Physician Willingness and Resources to Serve More Medicaid Patients: Perspectives from Primary Care Physicians*, 2(1) Medicare & Medicaid Rsch. Rev. E1, E14 (2011), https://perma.cc/7QSP-U473.

sixty-five percent of rural areas have a shortage of primary care physicians.[36] The issue persists in populous parts of the country as well—for example, in Maryland, where Montgomery County and Baltimore are located, there are only enough physicians to meet less than thirty percent of patient needs.[37] Close to fifty percent of Baltimore's population lives in a primary care "Health Professional Shortage Area," a designation by the federal Health Resources and Services Administration indicating that the geographical area has a shortage of medical providers for population needs.[38]

Unfortunately, provider scarcity does not stop with primary care doctors. Many parts of the country lack a sufficient number of OB-GYNs and maternal health doctors as well. The shortage of OB-GYN providers "represents a serious threat to women . . . who need quality prenatal care, cancer screening, and other vital services."[39] It is challenging for patients to access reproductive healthcare in rural parts of the county,[40] and

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36. Tanya A. Henry, *AMA outlines 5 keys to fixing America's rural health crisis*, Am. Med. Ass'n (June 6, 2024), https://perma.cc/6WF8-AGBY.

37. *Primary Care Health Professional Shortage Areas (HPSAs)*, Kaiser. Fam. Found., https://perma.cc/2V3T-H4BK (last updated Dec. 31, 2024).

38. *2021 Primary Care Needs Assessment*, Md. Dep't of Health (Sept. 2, 2021), https://perma.cc/YJ56-24WW.

39. Linda Marsa, *Labor pains: The OB-GYN shortage*, Ass'n of Am. Med. Colls. (Nov. 15, 2018), https://perma.cc/H7N7-JH64.

40. *Healthcare Access in Rural Communities*, Rural Health Info. Hub, https://perma.cc/2NR2-UAPD (last visited Mar. 5, 2025).

patients in larger cities, such as Seattle, Washington, face similar difficulties.[41]

Medicaid patients feel the provider shortage even more sharply. Across metropolitan areas, fewer providers accept Medicaid than private insurance plans.[42] Medicaid plans struggle to recruit both primary care and specialty providers to their networks,[43] and up to one-third of all physicians refuse to accept new Medicaid patients.[44] Here again the same issue persists for reproductive healthcare providers. In Franklin County, for example, where Columbus, Ohio is located, there are only three Title X clinics—federally funded healthcare sites offering low-cost reproductive healthcare services.[45] Franklin

41. Deedee Sun, *'Definitely blindsided': Thousands of families scrambling after sudden Seattle OB/GYN closure*, KIRO 7 News (Nov. 8, 2023), https://perma.cc/P7C4-PM54.

42. *Medicaid Networks More Than 60% Narrower Than Commercial in Some Areas*, Avalere (Mar. 11, 2021), https://perma.cc/377R-QGVZ.

43. Rachel Garfield, et al., *Medicaid Managed Care Plans and Access to Care: Results from the Kaiser Family Foundation 2017 Survey of Medicaid Managed Care Plans*, Kaiser Fam. Found. (Mar. 5, 2018), https://perma.cc/8NRH-4PPC.

44. Steven B. Spivack, et al., *Avoiding Medicaid: Characteristics Of Primary Care Practices With No Medicaid Revenue*, 40(1) Health Aff. 98, 98 (Jan. 2021), https://perma.cc/38LY-GWSY.

45. Lucas J. Fontenot, et al., *Where You Live Matters: Maternity Care Access in Ohio*, March of Dimes (2023), https://perma.cc/EAE7-PC34.

County has an estimated population of 1.3 million.[46] This provider landscape leaves patients across the country at a loss for quality healthcare and puts Medicaid patients at a significant disadvantage to those using commercial insurance.

B. Further Reduction in Available Medicaid Providers Will Overwhelm City- and County-Run Healthcare Systems and Remaining Medical Infrastructure

Many local health departments contribute to population health by providing direct medical care for residents. Reduced patient access to Medicaid providers such as Planned Parenthood will overburden local healthcare systems, making it difficult for municipal clinics and hospitals to perform their duties.[47] Like Planned Parenthood, city- and county-run hospitals and clinics often serve as providers of last resort, assisting vulnerable patient populations who have nowhere else to turn. Despite their critical mission, municipal health agencies face underfunding and understaffing.[48] They are also often one of few providers in their area that accept Medicaid.

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46. Mark Ferenchik, *Census: Franklin County, Central Ohio Again Leading State in Growth*, The Columbus Dispatch (Mar. 31, 2023), https://perma.cc/X4GR-42FY.

47. Gondi & Chokshi, *supra* note 2.

48. Rhea Farberman, *The Impact of Chronic Underfunding on America's Public Health System: Trends, Risks, and Recommendations, 2023*, Tr. for Am.'s Health (June 14, 2023), https://perma.cc/S3HB-HQY9.

Without Planned Parenthood, it is "unrealistic to expect other providers to readily step up and restore the gravely diminished capacity of the family planning safety net[.]"[49] Local health departments and other federally qualified health centers provide quality healthcare to many community members, but they cannot "compensate for the loss of affordable women's health services at Planned Parenthood clinics[,]" should a state prohibit Planned Parenthood from operating as a Medicaid provider.[50] Local governments already face significant budgetary pressures and must navigate frequent changes in tax and stimulus revenue.[51] Local hospitals and clinics have limited resources and may struggle to maintain operations if they see decreased revenue or an increased number of patients.[52] Community health centers and clinics "simply

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49. Kinsey Hasstedt, *Understanding Planned Parenthood's Critical Role in the Nation's Family Planning Safety Net*, Guttmacher Inst. (Jan. 12, 2017), https://perma.cc/7FKK-R2K5; Hal C. Lawrence & Debra L. Ness, *Planned Parenthood Provides Essential Services That Improve Women's Health*, 166(6) Annals of Internal Med. (Feb. 7, 2017), https://perma.cc/E5VD-SDRY ("Our health system is completely unprepared to meet [patient] need [without Planned Parenthood clinics].").

50. Sara Rosenbaum, *Planned Parenthood, Community Health Centers, And Women's Health: Getting The Facts Right*, Health Affs. (Sept. 2, 2015), https://perma.cc/5NYS-EZMT.

51. Thomas P. DiNapoli, *Boom or Bust? Federal Relief Aid and Local Government Finances in New York State*, Office of the State Comptroller (Feb. 2025), https://perma.cc/NV4N-PGTR.

52. *See, e.g.*, Jessica Fu, *Medicaid Spending Is Under Scrutiny. Here's What That Means for WA*, The Seattle Times (Feb. 28, 2025), https://perma.cc/YH53-4S7Y (discussing local hospital strain in the context of proposed Medicaid cuts).

do not have the capacity, facilities, or resources to pick up the significant patient population left without care if Planned Parenthood health centers are shut down."[53]

For example, Columbus, Ohio's health department operates nine outpatient clinics, treating close to 10,000 patients each year. Columbus' Women's Health and Wellness Clinic is one of few reproductive healthcare providers in the city that accepts Medicaid. Planned Parenthood is another. If Ohio had the power to remove Planned Parenthood as an option for Medicaid patients without proper cause, Columbus Public Health clinics would be severely impacted. Medicaid patients that normally turn to Planned Parenthood for contraceptive care or cancer screenings would turn to the city's clinics, overwhelming their limited capacity. Columbus Public Health's clinics have one doctor and close to eighty-five nurses on staff. They work tirelessly to serve their communities but could not manage a significant influx of patients seeking time sensitive reproductive healthcare.

Faced with ongoing and worsening provider shortages, patients will need to travel across city, county, and state lines to access critical healthcare, further burdening medical providers in *Amici*'s jurisdictions and nationwide. For example, though Harris County is not a contraceptive desert, a neighboring county, Liberty County, does not have a single health center offering a full range of birth

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53. Diana Silver & Farzana Kapadia, *Planned Parenthood Is Health Care, and Health Care Must Defend It: A Call to Action*, 107(7) Am. J. of Pub. Health 1040, 1041 (July 2017), https://perma.cc/WJ2Q-7RAE.

control methods.[54] So patients from Liberty County travel to Harris County, increasing the patient load on Harris County's contraceptive care providers, including the city-funded Harris County Public Health.

Other reproductive healthcare providers see an influx of patients from states with abortion bans seeking abortion care. Some clinics in Chicago saw their patient volume double between 2018 and 2024.[55] These clinics also provide non-abortion reproductive healthcare services, such as contraception and cancer screenings. And they do not have the capacity to treat the additional patients that will seek care if states begin to disqualify competent Medicaid providers for ideological reasons.

With such strain on the medical provider landscape across the country, public health will decrease. Some patients may delay appointments, leaving health conditions unmonitored or untreated. Others may forgo treatment altogether. "'A lack of timely access to care, particularly primary and preventative care, can lead to chronic conditions that put patients' lives in danger and increase costs.'"[56] When people who need healthcare are unable to access it, *Amici* face increased demands on their

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54. *Contraceptive Deserts*, Power to Decide, https://perma.cc/9AFA-X7GG (last visited Mar. 5, 2025).

55. Molly C. Escobar, et al., *171,000 Traveled for Abortions Last Year. See Where They Went*, N.Y. Times (June 13, 2024), https://perma.cc/D9FB-PHCQ.

56. *Two in Five Americans Report Unreasonable Health Care Wait Times*, AANP News (July 12, 2023), https://perma.cc/8USD-229H (quoting the President of the American Association of Nurse Practitioners).

budgets and capacity and *Amici*'s residents face poorer health outcomes and declining public health.

CONCLUSION

For the foregoing reasons and for the reasons provided by the Respondents and their other *Amici*, the judgment of the Fourth Circuit should be affirmed.

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APPENDIX

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APPENDIX A — LIST OF *AMICI CURIAE*

Local Governments

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City of Baltimore, Maryland

City of Chicago, Illinois

City of Columbus, Ohio

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City of Evanston, Illinois

Harris County, Texas

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Pima County, Arizona

City of Providence, Rhode Island

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City of San Francisco, California

Santa Clara County, California

Travis County, Texas

City of Tucson, Arizona

City of West Hollywood, California

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Mayor, City of Evanston, Illinois

Kendra Brooks
Councilmember and Minority Leader, City of Philadelphia, Pennsylvania

Jackie Butler
Commissioner, El Paso County, Texas

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