SUPREME COURT
OF THE UNITED STATES

IN THE SUPREME COURT OF THE UNITED STATES

- - - - - - - - - - - - - - - - - - - -

ADVOCATE CHRIST MEDICAL CENTER,   )

ET AL.,   )

        Petitioners,   )

           v.   ) No. 23-715

XAVIER BECERRA, SECRETARY OF   )

HEALTH AND HUMAN SERVICES,   )

        Respondent.   )

- - - - - - - - - - - - - - - - - - - -

Pages: 1 through 82

Place: Washington, D.C.

Date: November 5, 2024

1

```
 1      IN THE SUPREME COURT OF THE UNITED STATES
 2   - - - - - - - - - - - - - - - - - - -
 3   ADVOCATE CHRIST MEDICAL CENTER,    )
 4   ET AL.,                           )
 5                  Petitioners,       )
 6           v.                        ) No. 23-715
 7   XAVIER BECERRA, SECRETARY OF      )
 8   HEALTH AND HUMAN SERVICES,        )
 9                  Respondent.        )
10   - - - - - - - - - - - - - - - - - - -
11
12                  Washington, D.C.
13                Tuesday, November 5, 2024
14
15        The above-entitled matter came on for
16   oral argument before the Supreme Court of the
17   United States at 10:05 a.m.
18
19   APPEARANCES:
20   MELISSA ARBUS SHERRY, ESQUIRE, Washington, D.C.; on
21        behalf of the Petitioners.
22   EPHRAIM McDOWELL, Assistant to the Solicitor General,
23        Department of Justice, Washington, D.C.; on behalf
24        of the Respondent.
25
```

2

1   C O N T E N T S

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1   P R O C E E D I N G S

2   (10:05 a.m.)

3   CHIEF JUSTICE ROBERTS: We'll hear

4   argument first this morning in Case 23-715,

5   Advocate Christ Medical Center versus Becerra.

6   Ms. Sherry.

7   ORAL ARGUMENT OF MELISSA ARBUS SHERRY

8   ON BEHALF OF THE PETITIONERS

9   MS. SHERRY: Mr. Chief Justice, and

10   may it please the Court:

11   The same words in the same sentence

12   should have the same meaning. Today, we are

13   talking about the words "entitled to benefits"

14   in the DSH adjustment. Just two terms ago, in

15   Empire Health, this Court looked at the words

16   "entitled to benefits under Medicare Part A" and

17   said that it means qualifying for the Medicare

18   Part A program.

19   "Entitled to SSI benefits" in the same

20   sentence should mean the same thing, qualifying

21   for the SSI program. A person qualifies for the

22   SSI program when she applies and is determined

23   eligible, and that eligibility lasts until it is

24   terminated. The government disagrees because it

25   says that there's no such thing as an SSI

1　　　program and the only SSI benefit is a monthly

2　　　cash payment.

3　　　　　　But Congress created what it called a

4　　　national program, and it created a program of

5　　　income insurance. This is a program where a

6　　　person who's low income enough to qualify in the

7　　　first place is promised a minimum guaranteed

8　　　income for a calendar year, and in the months

9　　　where that income is not needed, the cash

10　　　payment is suspended. Nothing is terminated,

11　　　and other benefits remain available.

12　　　　　　In the end, this is about DSH, and DSH

13　　　is about ensuring that hospitals are reimbursed

14　　　for low-income patients that are less healthy

15　　　and that are costlier to treat, and health does

16　　　not change overnight.

17　　　　　　The government's interpretation simply

18　　　does not count that low-income population. It

19　　　does not count the low-income Medicaid patient

20　　　coming out of a nursing home. It does not count

21　　　the low-income patient waiting for her first

22　　　check. And the list of those it does not count

23　　　goes on and on. A DSH proxy that does not

24　　　measure the low-income population is no proxy at

25　　　all.

```
1                 I welcome the Court's questions.
2                 JUSTICE THOMAS:  Are there other
3       benefits other than cash under -- under, what is
4       it, Title XVI?
5                 MS. SHERRY:  There are.  There are
6       non-cash benefits, including Medicaid
7       continuation, and you can find that in 1382h(b),
8       and there's also vocational rehabilitation,
9       which you can find in Title XVI under 1382d.
10                You know, the government's response to
11      that, I think, is twofold.  It's to say that
12      non-cash is not income but probably more so to
13      say that those aren't benefits under Title XVI.
14                But they're both housed in Title XVI.
15      They're both triggered by being program-eligible
16      under Title XVI.  And especially when it comes
17      to Medicaid continuation, it's referred to as a
18      benefit under 1382h, which is in Title XVI.
19                The --
20                JUSTICE SOTOMAYOR:  Could you clarify
21      for me the Medicare -- the Medicaid regulation
22      that the government replies -- relies on?  It's
23      some -- it has something to do with, if
24      someone's on Medicaid, if they receive more than
25      $30 a month in income, they're no longer
```

1   eligible for SSI?

2   MS. SHERRY: Yeah. So -- so this

3   comes out of the SSI statute, and it makes sense

4   when you're thinking of -- of SSI. So the

5   reasoning behind it is that while you're in a

6   facility where Medicaid is paying for your daily

7   needs, you don't need the full payment.

8   Instead, you'll get this $30 comfort payment but

9   only if your income is actually under $30. And

10   for most people, because you get a Social

11   Security check, that's not going to be the case.

12   And I think that's one of the most

13   significant problems with the government's

14   approach, is it doesn't count any of those

15   individuals as low income for purposes of the

16   Medicare fraction. And it's really significant

17   because we have two different fractions here,

18   right? One measures low income based on SSI.

19   The other one measures it based on Medicaid

20   eligibility.

21   And so these are people that are, by

22   definition, Medicaid-eligible and so low income

23   when you think about the Medicaid fraction, yet

24   because of the way they do the calculation here,

25   they're actually not counted in either fraction.

1   I think, in Empire --

2   JUSTICE SOTOMAYOR: Now I -- I am a

3   little concerned about the Medicaid situation

4   because, as I understand it, when people are

5   placed in nursing homes, they assign all of

6   their income to the nursing home, and Medicaid

7   then picks up whatever the difference is between

8   that income and whatever the -- the authorized

9   charge is.

10   So, by the government counting the SSI

11   as income to the patient, they're ignoring that

12   the patient is only seeing about $30 a month.

13   MS. SHERRY: Yeah, and -- and I think

14   even less than that. I mean, I think the real

15   problem with the government's approach is that

16   person, in -- in the terms of the -- the

17   regulations, is thought of to be eligible for

18   SSI but not payable, and those individuals just

19   aren't counted at all for DSH purposes.

20   And so I think there was an assumption

21   in Empire Health that low-income individuals

22   would be in one fraction or the other, one box

23   or the other, but this takes these individuals

24   who are indisputably low income in their

25   hospital month and it doesn't count them at all.

1   And I think this is one of the places

2   where the government's arguments confuse the

3   purposes of the SSI statute and the purposes of

4   DSH. And so, you know, maybe there's a good

5   reason why they don't get a check, maybe there's

6   not, as Your Honor pointed out. But whatever

7   the answer to that question is, it's specific to

8   SSI. For DSH, there's absolutely no reason why

9   they shouldn't be counted as low income for

10   purposes of figuring out the hospital's

11   reimbursement.

12   JUSTICE SOTOMAYOR: Thank you,

13   counsel.

14   JUSTICE BARRETT: Ms. Sherry, am I

15   correct -- I just want to clarify that you're

16   not challenging any of the specific codes,

17   because people fall out for different reasons,

18   you know, wrong address and all of that, some of

19   the S codes?

20   MS. SHERRY: Yes.

21   JUSTICE BARRETT: But you're not

22   challenging any of those, and the D.C. Circuit

23   held that those challenges were waived?

24   MS. SHERRY: So -- so I think what was

25   going on in the D.C. Circuit was really

1   challenges to what kind of happens behind the

2   curtains as far as the counting goes. The

3   challenge that we have is just to what the

4   interpretation of the language should be. And,

5   under our interpretation, all of those codes

6   would be counted because our view of it is that

7   it's about program eligibility and someone is --

8   JUSTICE BARRETT: But, if you lose,

9   which let's just assume --

10   MS. SHERRY: Yes.

11   JUSTICE BARRETT: -- if you -- if you

12   lost, it's still possible for you in other

13   litigation, if -- even if not on remand, if it's

14   waived, to challenge particular codes?

15   MS. SHERRY: I think it depends. I

16   mean, I think the government's view -- if the

17   government's interpretation prevails here, I

18   think all of those codes would be out because

19   the government is -- is defending what -- or I

20   think defending, although maybe ask them, but I

21   think defending what CMS is doing, which is only

22   counting three codes. And that's at pages 47

23   and 48 of their brief. And so, if -- if their

24   interpretation prevails, they will continue to

25   just count the three codes.

1   And you can imagine litigation about

2   whether they're doing that correctly, and there

3   has been litigation, you know, with respect to

4   that, but as far as our differing interpretation

5   goes, I think we're at two different extremes.

6   JUSTICE BARRETT: Because it seems to

7   me like if you're eligible for a monthly payment

8   because your income was low enough, but you

9   didn't get the check because -- for all of the

10   various administrative reasons why you might not

11   get it, I could imagine you satisfying the

12   statutory definition even under the government's

13   approach but yet still be entitled to a check

14   that somehow the codes don't account for.

15   MS. SHERRY: Yeah. So I -- I'm

16   curious as to what the government's view are. I

17   -- I can say that CMS is not counting those

18   individuals, right, because they're only

19   counting the three codes, and I think they're

20   basing it -- we call it an actual receipt rule.

21   Maybe it's an actually sent rule. But they're

22   only counting those for which a payment has been

23   sent by the time they do the matching process,

24   so 15 months after.

25   And anyone who doesn't have one of

 1   those three codes at the time, which would

 2   include all the individuals you're talking

 3   about, just wouldn't be counted.

 4   But I don't think you can just draw

 5   the line at those individuals because there's a

 6   second category, including the nursing home

 7   patients, who are still eligible. They're just

 8   not payment-eligible in a particular month.

 9   They're not due a payment in that month. And

10   the government, I think, admits that all of

11   those individuals fall out under their approach

12   too.

13   It includes those in their first month

14   of eligibility. So they just went through the

15   application process and were found to be low

16   income, yet they're not entitled to a check

17   their very first month. Those individuals would

18   not be counted.

19   Also in the other category, there's

20   individuals who are in prison, who also aren't

21   counted because they're not due a check. That

22   might make a lot of sense when it comes to SSI.

23   It doesn't make any sense when it comes to DSH

24   because the individuals who are low income who

25   are in prison certainly aren't getting any

1   healthier when they're transferred to a

2   hospital.

3   JUSTICE JACKSON: So, as a textual

4   matter, you seem to be distinguishing program

5   eligibility, as you say, and eligibility for a

6   payment, and I'm just wondering whether that's

7   pretty common.

8   I mean, I sort of conceive of other

9   benefits programs in the federal scheme in a

10   similar way. I sort of thought that's what we

11   were saying in Empire, that you could have

12   Medicare where you have criteria for program

13   eligibility, but just because you don't get the

14   benefit doesn't mean that you don't qualify for

15   the DSH fraction. Is that sort of how your

16   argument works?

17   MS. SHERRY: It is, right. There's a

18   difference between whether you have a right to

19   payment at a -- at a particular time or for a

20   particular service and whether you are in the

21   program, whether you are entitled to benefits

22   under the program.

23   And we're making the same distinction

24   here that the Court made in Empire Health in

25   that respect. And I think you could look -- I

1   mean, in terms of the actual textual language,

2   you can look at a few provisions.

3   The most notable one in the SSI

4   statute we point out in our brief, it's in -- on

5   pages 60 -- sorry, 34A and 35A of the statutory

6   addendum, and it's this financial records

7   provision, and it basically says: You authorize

8   us to access your financial records, and that

9   authorization lasts until cessation of your

10   eligibility for benefits under Title XVI.

11   And the government agrees that that

12   has to mean program eligibility because,

13   otherwise, it would be a very nonsensical system

14   to have to get reauthorization every single

15   month. And the regulations confirm that because

16   they say that the authorization is valid until

17   there has been a terminating event.

18   JUSTICE JACKSON: And so your argument

19   just in terms of the purposes, because you

20   brought that up before, is that you view DSH as

21   trying to get at those people that --

22   MS. SHERRY: Trying to get at the

23   larger group of individuals.

24   JUSTICE JACKSON: The larger group of

25   program eligibility because it doesn't, in your

1   view, make any sense that whether or not a

2   person gets a payment is -- has some sort of

3   relationship to the DSH fraction?

4   MS. SHERRY: That's exactly right.

5   And if you look, actually, at the legislative

6   history for DSH in the Senate report and in the

7   conference report, where they're talking about

8   the Senate bill, the language is the same there

9   as it is now when it comes to SSI at least.

10   And for that language, they describe

11   it as wanting to count those who are enrolled in

12   the SSI program, so both acknowledging that

13   there is a program and focusing on the class of

14   enrollees.

15   And I think that is most consistent

16   with the DSH purpose, but I think it's also most

17   consistent with the text of DSH, which talks

18   about "entitled to benefits," plural, and also

19   excludes one particular benefit, which is state

20   supplementation.

21   So it's a broad definition, but it's

22   also a nuanced one that would include everything

23   else that is not excluded, which includes the

24   cash benefits but also includes things like

25   Medicaid continuation and also vocational

1   rehabilitation. Both are within Title XVI.

2   JUSTICE KAGAN: Can I step back a

3   minute, Ms. Sherry, and just ask you about the

4   nature of your argument? Because you start both

5   in the briefs and then again this morning, you

6   know, by saying "entitled to benefits" can't

7   mean the same thing when it's used twice in

8   one -- can't mean different things when it's

9   used twice in one sentence.

10   But, of course, this is "entitled to

11   benefits under Medicare" and "entitled to

12   benefits under SSI." And -- and Empire was all

13   about what "entitled to benefits under the

14   Medicare program" meant. I mean, it did a sort

15   of micro-analysis of the Medicare statute and

16   its structure and its purposes and its text.

17   So, if we thought that the SSI program

18   was completely different, if we thought that --

19   and I know your argument is that it's not --

20   but, if we thought that, this argument about the

21   language can't mean different things in the same

22   sentence would completely go away, isn't that

23   correct?

24   MS. SHERRY: Partially.

25   So I want to clarify. We think you

1   have to start with the DSH statute, and we think

2   you have to start with Empire, but that's not to

3   say you shouldn't look to the SSI statute. You

4   need to do that to determine whether someone

5   qualifies for a program.

6   Now, as far as what "entitle" means, I

7   do think there would still be an oddity in terms

8   of saying "entitled" does not mean right to

9   payment, it means eligible in one part, then

10   "entitled" means right to payment, it doesn't

11   mean eligible, and then you get down to

12   "eligible" and you say it doesn't mean right to

13   payment, it means the same as the first

14   "entitled" but not the second "entitled."

15   So I do think that would be a

16   complicated thing to do.

17   JUSTICE KAGAN: Well, I -- I guess the

18   question, though, is, you know, what it means to

19   be entitled to benefits under either program.

20   And if you thought what it meant is -- is very

21   different to -- you know, that "entitled to

22   benefits under Medicare" was very different from

23   "entitled to benefits under SSI" or, similarly,

24   that "eligibility for benefits under Medicare"

25   was very different from "eligibility for

1   benefits under SSI," then that's the way you

2   would read the statute, correct?

3   MS. SHERRY: I -- I think that's true

4   if you focus on -- on benefits. And the only

5   thing I'm pushing back on -- I would agree with

6   you. I mean, if you took "entitled to" and you

7   ran it through the SSI statute and it became

8   clear it's a term of art, it always means right

9   to payment, you would, you know, probably

10   overcome the presumption and read it back in.

11   But "entitled to" is not a term of art

12   in the SSI statute. It's rarely used. And so

13   that doesn't work.

14   JUSTICE KAGAN: I mean, just to put

15   this --

16   MS. SHERRY: But then the other --

17   JUSTICE KAGAN: -- at its most

18   starkest form, you know, suppose -- and I -- I

19   know that you vigorously resist this, and -- and

20   I'm not suggesting the -- I'm just -- let's just

21   assume for a second that SSI was, like, not an

22   insurance program of the kind that Medicare is,

23   nor is it a program that gives you a panoply of

24   benefits but that, instead, it was simply a -- a

25   cash subsidy that is given on a month-to-month

 1   basis. Let's just say that. And I know you

 2   have a thousand objections to that.

 3   But, I mean, then you would say:

 4   Well, you know, then the government has to be

 5   right, notwithstanding that it's "entitled to,"

 6   "entitled to" in the statute.

 7   MS. SHERRY: Right. That would be a

 8   different case because you would say, when you

 9   qualify for the SSI benefits, it is limited just

10   to that monthly right to payment.

11   I mean, if it was just people off the

12   street, right, there's no program, there's no

13   application process, just every month you call

14   up, say, I checked these three boxes, give me a

15   check, the next month you call up again, and

16   there's no application process, there's no

17   program, there's no other benefits, yes, it

18   would be completely not okay.

19   JUSTICE KAGAN: Yeah.

20   JUSTICE KAVANAUGH: The --

21   JUSTICE KAGAN: So it's just that, you

22   know, just to put it in its starkest form, in

23   the end, this is a question about the nature of

24   SSI, right? If you're right, you win. If the

25   government is right, the government wins. In

 1   the sense of is SSI a program that gives you

 2   lots of different kinds of benefits once you

 3   qualify for it, one might go away, but you

 4   retain the others, or is SSI just a monthly

 5   check that you get in the mail?

 6   MS. SHERRY: I think that is a key

 7   part of the analysis. I would hesitate to say

 8   it's everything because I think you still have

 9   to come back to the text of DSH, and I think you

10   still have to come back to the purpose of DSH.

11   JUSTICE KAVANAUGH: And --

12   MS. SHERRY: And so --

13   JUSTICE ALITO: Well, your --

14   JUSTICE KAVANAUGH: -- so how -- go

15   ahead. Go ahead.

16   JUSTICE ALITO: I mean -- I mean, your

17   lead argument is -- and it's -- you know, it's

18   catchy when you read it -- that the phrase

19   "entitled" -- "entitled to benefits" can't mean

20   two things.

21   But following up on what Justice Kagan

22   was asking, I don't see how the government's

23   argument does that at all. What you're saying

24   seems to me, when you think about it, terribly

25   superficial. It's the nature of the

1   entitlement.

2   So "entitled to benefits" can mean

3   exactly the same thing in these two contexts,

4   but it -- you know, "entitle" -- it's the nature

5   of the entitlement. So, if the entitlement is

6   different under Medicare and under SSI, then

7   that argument falls apart.

8   MS. SHERRY: So I think there's two

9   ways to look at the government's argument. One

10   is it's interpreting "entitled" to mean two

11   different things. I think, during the Empire

12   Health argument, that was a concern. It was

13   Problem 1 with the government's interpretation

14   there.

15   But I think, even if you don't read it

16   that way and you read it as focusing just on the

17   qualifications for the program and SSI being

18   different, it doesn't hold up on that ground

19   either.

20   So you can take, you know, everything

21   about the same word meaning the same thing and

22   put it to the side and just focus on the SSI

23   statute, and it doesn't look different in any

24   way that matters to then Medicare Part A.

25   JUSTICE ALITO: Okay. So we get -- we

1   get to those arguments.

2   Now another argument that you have is

3   that this is like Empire Health. But isn't

4   Medicare different from SSI in at least two very

5   important effect -- respects that Empire Health

6   emphasized? SSI payments are not automatic and

7   they're not enduring. Isn't that -- that true?

8   And that is not true of Medicare?

9   MS. SHERRY: They -- there are

10   differences, but the differences, I think,

11   actually, as far as it not being automatic point

12   in our direction.

13   So, yes, you need to apply to be

14   entitled to SSI benefits, but I think that helps

15   our interpretations because, basically, there

16   are application bookends on either side that

17   show that there is a program that you are

18   eligible for.

19   And so the difference here is Medicare

20   Part A, you're automatically entitled. Here,

21   you have to apply. But, once you apply, then

22   we're in the same world. Then you are entitled

23   to SSI benefits and you're entitled to them

24   until you've been terminated from the program.

25   The statute distinguishes between

```
 1    suspensions and terminations, and the

 2    regulations do the same thing.  Part -- subpart

 3    (m) of the regulations separate out suspensions

 4    from terminations, and you can't be suspended

 5    unless there's something to be suspended from.

 6              And so I think the application

 7    distinction works in our favor.

 8              JUSTICE KAVANAUGH:  The -- keep going.

 9    Sorry.

10              MS. SHERRY:  Oh, no.

11              JUSTICE KAVANAUGH:  Well, I think the

12    question from both Justice Kagan and Justice

13    Alito, at least as I understand them, is --

14    boils down to is SSI similar in relevant

15    respects to Medicare for purposes of

16    interpreting this statutory provision.

17              And I think the government emphasizes

18    two things, maybe more.  One, that Medicare's an

19    insurance program and SSI, they say, is not.

20    And, two, at least the big picture that I

21    understand, people drop in and out of SSI more

22    readily than they do on Medicare.  And I think

23    how we analyze those two questions determines

24    how similar SSI is to Medicare at least as I

25    understand it.  So I want you to focus on the
```

1   insurance description and the falling in and out

2   as distinct from Medicare.

3   MS. SHERRY: Sure. So, on the

4   insurance distinction, this is -- you know, it's

5   not health insurance, obviously, but it's income

6   insurance. It's not just this monthly payment

7   to strangers on the street. The whole concept

8   --

9   JUSTICE KAVANAUGH: What do you mean

10   by the word -- I'm going to ask the government

11   this too -- what do you mean by the word

12   "insurance"?

13   MS. SHERRY: Almost assurance. So --

14   so the -- the concept here is that you're

15   guaranteed a minimum income for the calendar

16   year once you're part of the program, once

17   you've applied and been accepted.

18   I think of it as if, you know, you

19   have a college graduate whose parents say

20   congratulations, go get yourself an apartment,

21   and we will send you a rent check for every

22   month in which you don't have enough money to

23   cover rent. And so, if you have a job and

24   you're making money and you can cover it, you're

25   on your own, but if you come up short, we'll

1   cover the difference, and we'll do that until

2   you've been able to string together 12 months

3   where you've been able to pay for your own rent,

4   at which point deal's off, you're on your own.

5   That's really what the SSI program is.

6   So it's not just the cash payment in a given

7   month or making up the difference. It's knowing

8   that you're guaranteed this minimum income for

9   as long as you're in the program.

10   JUSTICE KAVANAUGH: And then the --

11   the dropping out, I think one of the

12   government's suggestions is you can drop out of

13   SSI more readily and somehow that, for purposes

14   of the questions Justice Kagan and Justice Alito

15   were asking, makes SSI relevantly different.

16   MS. SHERRY: Right. So I don't think

17   that's a distinction either. I'm not sure, even

18   if it were, it would matter, but I don't think

19   it's a distinction because there's two kinds of

20   eligibility and it depends what the government

21   is talking about.

22   There's program eligibility, and

23   individuals do not drop out of the program all

24   that often. I think the -- the statistics the

25   government give -- and it's in the Joint

 1   Appendix from the court of appeals; it's at page

 2   147 -- is that about 350,000 people in -- I

 3   think it's in 2009 were terminated for excess

 4   income.

 5   First of all, that's about 5 percent

 6   of the population. But, if you look more

 7   closely at those who are likely to be

 8   Medicare-eligible, so over the age of 65, and

 9   that's at the bottom of that page, it's roughly

10   about 35,000 people total who drop out. The

11   reality is most stay in this program for a long

12   time, and so I think it's actually quite stable.

13   JUSTICE KAVANAUGH: Do people drop out

14   of Medicare --

15   MS. SHERRY: I think people drop out

16   --

17   JUSTICE KAVANAUGH: -- when --

18   MS. SHERRY: -- when they're no longer

19   disabled --

20   JUSTICE KAVANAUGH: Correct.

21   MS. SHERRY: -- would be the primary

22   example.

23   JUSTICE KAVANAUGH: Yeah.

24   MS. SHERRY: And so I -- I think, you

25   know, once you get down to it, it's pretty

1   comparable. And then, if you look at payment

2   eligibility in terms of, like, the

3   month-to-month payments, in Empire Health, it

4   was recognized that people might not get payment

5   for particular services because they've exceeded

6   the 90 days, for example, or because a primary

7   payor is paying. So there's some lack of

8   stability when it comes to payment for Medicare

9   Part A.

10   And then you translate that over to

11   SSI and they again point to statistics -- and

12   this is the prior page, 146, of the Joint

13   Appendix from the court of appeals -- and that

14   number is higher. It's about 600 -- I think

15   650,000 individuals in 2009 who were suspended

16   for excess income. But, again, if you focus on

17   the over-65 number, it's about 71,000 people.

18   And so, even when it comes to payment

19   eligibility, it's not nearly as variable as they

20   suggest it is.

21   JUSTICE GORSUCH: Ms. Sherry, if we

22   might take a hypothetical. Let -- let's say I

23   have a 70-year-old person who's deemed eligible

24   for SSI because of his income but then certain

25   months in the year makes over a million dollars

1   a month. I know that's unlikely, but let's just

2   suppose it.

3   Is he entitled to benefits for the

4   full year?

5   MS. SHERRY: I would -- I -- I would

6   say he probably doesn't meet the resource qual-

7   -- so -- so you need to have --

8   JUSTICE GORSUCH: He's not eligible

9   for those months.

10   MS. SHERRY: Well, he's probably not

11   eligible to begin with, but if -- even if we

12   assume he's --

13   JUSTICE GORSUCH: But -- no, but let's

14   -- let's just --

15   MS. SHERRY: -- spending the million

16   dollars --

17   JUSTICE GORSUCH: No, no, let's assume

18   at the beginning of the year --

19   MS. SHERRY: Yeah.

20   JUSTICE GORSUCH: -- for some months,

21   he is indeed entitled to and eligible for

22   benefits and -- and he gets them, but then, in

23   certain months, he makes well in excess of the

24   -- the income threshold.

25   MS. SHERRY: So -- so he --

```
1                  JUSTICE GORSUCH:  Is he entitled to

2      benefits under your view for the full year?

3                  MS. SHERRY:  He -- he is until he's

4      terminated from -- from the program.  And I

5      think there's one good explanation for it --

6                  JUSTICE GORSUCH:  So he's --

7                  MS. SHERRY:  -- and one reason --

8                  JUSTICE GORSUCH:  -- entitled to

9      benefits --

10                 MS. SHERRY:  Yes.

11                 JUSTICE GORSUCH:  -- even though he's

12     not eligible for them?

13                 MS. SHERRY:  He's not eligible for the

14     cash payment, and -- and let's just assume he's

15     also not eligible for, you know, Medicaid

16     continuation and -- and vocational rehab.  He's

17     still entitled to benefits, and that's because

18     of the concept of conditional entitlement that

19     was at issue in Empire Health as well.

20                 Entitlement coexists with limitations

21     on payment.  That's what the Court said in

22     Empire Health.  And the statutory language the

23     Court relied on for that in Medicare Part A is

24     also present in SSI.  And so, if you look at the

25     SSI statute, 1381a, it talks about being
```

     1   eligible for payment or I think it says "paid

     2   subject to the provisions of this chapter" and

     3   then the comparable language in Medicare Part A.

     4   JUSTICE KAGAN: I mean, it seems to me

     5   Medicare is quite different from this in that

     6   respect. I mean, the -- there were lots of

     7   arguments in Empire Health, but one of the main

     8   ones was, even if you had reached the cap on

     9   hospital care, there were other kinds of care

    10   that you could access under Medicare. So you

    11   had reached the cap in terms of your hospital

    12   stay, but you could get outpatient treatment for

    13   some other condition. So the Medicare was not

    14   going away.

    15   But, here, the only thing that there

    16   is, which really is the cash payment, is going

    17   away in the months in which the person receives

    18   more than the threshold income, isn't that

    19   right?

    20   MS. SHERRY: So, I -- I mean --

    21   JUSTICE KAGAN: There's nothing left?

    22   MS. SHERRY: -- again, assuming this

    23   person is not eligible for Medicaid continuation

    24   and vocational rehab, there's the guarantee, but

    25   I -- I think this is where you have to take a

1   step back and look at the purposes of DSH

2   because I think you can come up with this

3   hypothetical example, but I do think it pales in

4   comparison to the real-world categories of

5   low-income individuals who are left out if

6   you're looking at the two on a scale.

7   And even with the $1 million

8   hypothetical, that person -- you know, DSH is

9   not looking at low income for low income's sake.

10   It's looking at it because it's trying to

11   identify a class of individuals who are less

12   healthy and more costly for the hospital. And

13   so, if that person was low income enough to

14   qualify in the first place, just because he's

15   getting a million dollars in one month is not

16   going to change his health overnight in a way

17   that's going to matter to the hospital's bottom

18   line.

19   CHIEF JUSTICE ROBERTS: Thank you --

20   thank you, counsel.

21   Justice Thomas, anything?

22   Justice Alito?

23   JUSTICE SOTOMAYOR: Assume -- assume

24   that the vocational rehabilitation benefit that

25   you think is a part of Title XVI and the 1382h

1   that you think is a part of it, how about if we

2   disagree that the vocational rehab is a -- is a

3   program run separately from Title XVI? So what

4   are you left with? Are you left only with the

5   argument that this is a -- and it's a powerful

6   argument, I'm not denigrating it -- that this is

7   an insurance program for a year, that you're

8   guaranteed payment at least if your income is

9   low for that year, so if you don't get it one

10   month, you're still going to be getting it the

11   second, third, or fourth? That sounds like a

12   program to me too. But part of your argument

13   that some of my colleagues are focused on is the

14   fact that there are no other benefits for that

15   month.

16   MS. SHERRY: Right. So, if you

17   disagree on the non-cash benefits, then, yes, we

18   are arguing that it is a program -- it's an

19   income insurance program. And you don't need

20   the non-cash benefits to agree with us on that

21   and rule for us on that. I think it's an

22   additional -- it's icing, so to speak.

23   I think you do have to, though -- if

24   you agree that there's non-cash benefits,

25   there's no way to rule for the government

1   because their position rests on it only being

2   about cash. So I don't think we need the

3   non-cash benefits to win.

4   JUSTICE SOTOMAYOR: So why don't you

5   spend a moment on the government's

6   counter-arguments as to why those two provisions

7   are not part -- they're not additional benefits?

8   MS. SHERRY: Sure. So let me start

9   with vocational rehabilitation just because I

10   touched a little bit on Medicaid continuation

11   already. It is a benefit provided under Title

12   -- you know, it's housed in Title XVI. You can

13   look at 1382d, which is in Title XVI. It was 6

14   -- it is 1615 of the Social Security Act, so

15   very much in Title XVI.

16   Secondly, it is funded by Title XVI.

17   The appropriations under 1381 is where the

18   funding comes from. And you qualify it if you

19   are a Title XVI disability beneficiary. And so

20   the person who is in the SSI program is getting

21   reimbursement or the state is getting

22   reimbursement for that benefit because they are

23   covered by -- by Title XVI.

24   So in every which way it's a Title XVI

25   benefit. The government's counter-argument,

1   putting the non-cash issue to the side, is that

2   it shouldn't qualify as under Title XVI

3   essentially because it's also under Title XI and

4   it's also under states. That doesn't hold up

5   because it reads "under" as exclusively under.

6   And yet, in DSH itself, they excluded

7   state supplementation benefits, which are not

8   exclusively under Title XVI. They're provided

9   by states. Yet Congress understood them to be

10   benefits under Title XVI such that they needed

11   to be excluded. And so there's a real

12   inconsistency between those two positions.

13   On Medicaid continuation, almost all

14   of the same arguments, you can find it in 1382h.

15   It is 1619(b), and it is also triggered by

16   eligibility in the SSI program. But, on that

17   one too, you can look throughout Title XVI and

18   see it referred to as a benefit under 1382h.

19   1380 -- 1383j is one place to look. I believe

20   it's also in subsection (k) and subsection (p).

21   JUSTICE SOTOMAYOR: Thank you.

22   CHIEF JUSTICE ROBERTS: Justice Kagan?

23   Justice Gorsuch?

24   Justice Kavanaugh?

25   JUSTICE KAVANAUGH: I have a couple

1   questions.

2   On Justice Gorsuch's hypothetical

3   about the SSI millionaire, I mean, that's

4   unlikely to happen in the real world, but it

5   could happen. But couldn't it also happen that

6   someone on Medicare has, you know, golden

7   insurance, private insurance that's going to

8   cover them, so they never really need Medicare

9   even though they're in the Medicare program?

10   MS. SHERRY: Yes. And I -- I suspect

11   that's -- that's somewhat more -- more likely

12   than the million-dollar --

13   JUSTICE KAVANAUGH: It -- it is more

14   likely why? Why is -- I think it is more

15   likely. Why is that more likely?

16   MS. SHERRY: Well, because everyone is

17   entitled to Medicare when they -- when they turn

18   65. And some who have turned 65 are -- are

19   quite well off and they have amazing insurance.

20   And so I -- I think the million-dollar

21   hypothetical is a hypothetical for -- for a

22   reason.

23   The reality is the individuals who do

24   not get payments in certain months because of

25   excess income are probably not the millionaire

1   or the lottery winner or any of those other

2   hypotheticals you can come up with but, instead,

3   are individuals who slightly pop over the income

4   threshold by a small amount in a month, only to

5   fall back under it the following month.

6   And that's the reason why there are so

7   few that are terminated from the program,

8   because they can't string together 12 months of

9   income stability.

10   JUSTICE KAVANAUGH: So, for people who

11   do pop over for a month, over the limit, most of

12   them stay in the program because they're back

13   under the limit at some point, is that

14   correct --

15   MS. SHERRY: That's correct.

16   JUSTICE KAVANAUGH: --

17   percentage-wise?

18   MS. SHERRY: That's correct.

19   JUSTICE KAVANAUGH: A large percentage

20   of them, right?

21   MS. SHERRY: Yes, a very significant

22   percentage.

23   JUSTICE KAVANAUGH: Then, on Medicare

24   as well, it was going away. I -- I mean, I

25   might have a different understanding -- in fact,

1   it's almost certain I have a different

2   understanding of Empire than Justice Kagan does,

3   but --

4   (Laughter.)

5   JUSTICE KAVANAUGH: -- I thought -- I

6   thought Medicare was going away for that day if

7   you had the private insurance, but we

8   nonetheless -- the Court nonetheless said you're

9   still entitled to Medicare even though you

10   didn't have any Medicare coverage for that day.

11   Is that --

12   MS. SHERRY: That's right.   And I

13   think, you know, there's a couple different

14   things that come in there, but I think that's

15   where the conditional entitlement comes in.

16   It's the season ticket holder example from the

17   Empire Health briefing.

18   JUSTICE KAVANAUGH: Okay.   And then

19   last question.   This is very technical, but what

20   happens in the real world may affect how

21   plausible it is that Congress would have chosen

22   one interpretation over another.

23   So, if you lose, what's going to

24   happen, realistically, to rural hospitals and

25   urban hospitals that serve safety net -- as

1   safety nets?

2   MS. SHERRY: Yeah. So, here, I would

3   point to the amicus briefs, which -- which go

4   through it in some detail. The reason Congress

5   created the DSH adjustment to begin with was

6   because of the higher cost of treating a

7   low-income population, and hospitals that treat

8   a disproportionate share need this money in

9   order to stay afloat for -- for many hospitals.

10   And for others, the point is to

11   provide -- to incentivize them to provide the

12   services that are needed to service this

13   vulnerable and at-risk population, and without a

14   proper reimbursement under the formula, that's

15   going to be very difficult and has been very

16   difficult for hospitals to do.

17   JUSTICE KAVANAUGH: And hospitals will

18   close, or do you think that's not realistic?

19   MS. SHERRY: No, I think that is --

20   JUSTICE KAVANAUGH: A amicus brief

21   suggests rural hospitals are going to close.

22   MS. SHERRY: I -- I think that is

23   realistic. I mean, the amicus briefs go in some

24   detail about how close the margins are and how

25   difficult it is and how significant the -- the

1   DSH adjustment and the particular amount of the

2   DSH adjustment is not only to DSH but to other

3   programs that piggyback off of eligibility for

4   DSH.

5   JUSTICE KAVANAUGH: Okay. Thank you.

6   CHIEF JUSTICE ROBERTS: Justice

7   Barrett?

8   Justice Jackson?

9   JUSTICE JACKSON: Yes.

10   Justice Kagan asked you how close is

11   this to Medicare given the way the DSH statute

12   is constructed, and I guess I'm a little

13   concerned that how close it is or how much it

14   looks like or how much it operates like is

15   really beside the point.

16   So, if we set aside Medicare for a

17   second and we just look at this program, and if

18   we assume, as Justice Kagan does, that this is

19   just about the cash payment, I am wondering

20   about the distinction that you're drawing

21   between eligibility for the program, which we

22   can call entitlement, versus eligibility for the

23   payment.

24   As I understood it, eligibility for

25   the program, or entitlement, gives you the

1   assurance that in any month during the next year

2   when you fall below the income cap, the

3   government will send you a check.

4   So that's what's left. Even in a

5   month where you don't get a check, you know that

6   maybe next month you will if you don't have this

7   extra cash coming in.

8   Am I right about that?

9   MS. SHERRY: That's absolutely right.

10 And for more than a year. You have that

11 assurance for so long as you haven't been able

12 to string together 12 consecutive months of

13 higher income.

14   JUSTICE JACKSON: And you also have

15 the government working for you in that effort,

16 right? So, when you apply, you apply to this

17 program, and you have to meet the eligibility

18 criteria.

19   I'm looking at the statute, and it

20 gives the criteria of you being aged or blind or

21 disabled. Do you have a certain income? Do you

22 have certain resources? And the statute says:

23 Shall be an eligible individual for the purposes

24 of this subchapter.

25   Setting aside all the other benefits,

1   if I'm just focusing on the cash benefit, I

2   would think one of the things that comes with

3   that is the government, every month, is

4   monitoring your finances, and in any month in

5   which you go below the payment, they will send

6   you a check automatically. Is that right?

7   MS. SHERRY: I think that's right in

8   part. And the government can correct me if I'm

9   wrong. I think, when you fall below it, you

10   might have to make a phone call and request

11   reinstatement. That's a regulatory requirement.

12   It's not in the statute itself. But --

13   JUSTICE JACKSON: But you're entitled

14   to do that?

15   MS. SHERRY: Absolutely.

16   JUSTICE JACKSON: You know, X person

17   on the street who's not enrolled in the program

18   can't just ask the government for money. You

19   get to do that because you are an entitled

20   person and you met those original criteria,

21   right?

22   MS. SHERRY: Exactly. And that is the

23   real difference, right, the -- the person on the

24   street, right? This is not a case where every

25   month you're just walking up to a window,

1   filling out a form, and then walking away with a

2   check. Once you're in the program, you're in

3   the program.

4   JUSTICE JACKSON: And you get the

5   benefit of picking up the phone and calling the

6   government and saying: Please send me my

7   check -- or the government does it

8   automatically -- in any month in which you are

9   entitled to -- to get it, right?

10   MS. SHERRY: Right. And you authorize

11   the government to have access to your financial

12   records for so long as you're in the program so

13   they can continue to check your income against

14   the guaranteed monthly income.

15   JUSTICE JACKSON: Thank you.

16   CHIEF JUSTICE ROBERTS: Thank you,

17   counsel.

18   Mr. McDowell.

19   ORAL ARGUMENT OF EPHRAIM McDOWELL

20   ON BEHALF OF THE RESPONDENT

21   MR. McDOWELL: Thank you, Mr. Chief

22   Justice, and may it please the Court:

23   The DSH provision is designed to

24   compensate hospitals for serving a

25   disproportionate share of low-income patients.

1   And in the Medicare fraction, Congress used a

2   patient's entitlement to SSI benefits as a proxy

3   for determining whether the patient is low

4   income.

5   SSI benefits are monthly cash payments

6   made by SSA when a person meets eligibility

7   requirements in a particular month, including

8   the requirement of having low income in that

9   month.

10   Thus, as HHS has consistently

11   recognized since Congress enacted the Medicare

12   fraction, a person is entitled to SSI benefits

13   only when he satisfies the requirements for a

14   cash payment during the month of his hospital

15   stay.

16   That interpretation is fully

17   consistent with the one this Court upheld in

18   Empire Health. The Medicare fraction uses two

19   distinct phrases, "entitled to benefits under

20   Medicare Part A" and "entitled to SSI benefits

21   under Title XVI."

22   And while the word "entitled" means

23   the same thing within both phrases, benefits

24   under Medicare Part A are fundamentally distinct

25   from SSI benefits under Title XVI.

 1   Petitioners claim that a person is

 2   entitled to SSI benefits even if he is not owed

 3   a cash payment during the month of his hospital

 4   stay so long as he received at least a single

 5   cash payment sometime within the year prior to

 6   his hospital stay.

 7   But SSI benefits are monthly cash

 8   payments. So, if a person is not entitled to

 9   the cash payment in a particular month, he's

10   simply not entitled to SSI benefits in that

11   month.

12   Petitioners also claim that SSI

13   benefits under Title XVI include not only cash

14   payments but also certain non-cash benefits.

15   But those non-cash benefits are not supplemental

16   security income benefits because they are not

17   cash payments made by SSA, nor are they provided

18   under Title XVI.

19   Ultimately, Petitioners would

20   routinely count patients as low income even

21   though they are earning too much income to be

22   entitled to an SSI benefit. That approach is

23   flatly inconsistent with Congress's choice of

24   SSI entitlement as the proxy for low-income

25   status.

1   I welcome the Court's questions.

2   JUSTICE THOMAS: Petitioner argues

3   that the whole purpose of this formula is to

4   determine low-income population that is served,

5   which is a good point. So the -- and that

6   enrollment in the SSI program is only for people

7   who are low income, even though people may fall

8   in and out of the -- the monthly payment

9   requirement.

10   Why isn't she right -- why isn't

11   Petitioner right?

12   MR. McDOWELL: So, Justice Thomas, I

13   think our position --

14   JUSTICE THOMAS: I understand the

15   statutory argument.

16   MR. McDOWELL: Yeah.

17   JUSTICE THOMAS: So what difference

18   does it make in a practical sense if your

19   reading is accepted or her reading is accepted?

20   MR. McDOWELL: Right. So I think ours

21   gets to the purpose of the DSH provision better

22   because ours is more precise at capturing

23   low-income people in the month of their

24   hospitalization. We're only going to count

25   someone as low income if they've established

1   that they are low income in the month of their

2   hospitalization.

3   JUSTICE JACKSON: But why does that

4   matter? I -- I -- I'm so confused by your

5   argument, I have to say. I'm struggling to

6   understand why an individual's eligibility for

7   payment in a particular month has any bearing on

8   the goals of compensating hospitals for the

9   higher cost of low-income people.

10   So let me give you a hypothetical.

11   Imagine a man who's lived well below the poverty

12   line for his entire life. He has a range of

13   health conditions that result from that kind of

14   upbringing. When he turns 65 in January, he

15   applies for SSI payments and starts receiving

16   them in February pursuant to the statute and the

17   regulations. Let's say in June he comes into a

18   bit of cash. He inherits some jewelry. He

19   sells it. He picks up an extra shift at work.

20   He gets money back from a friend who owes it to

21   him, okay?

22   We can all agree that if the extra

23   cash he gets in June brings him above the

24   threshold, he doesn't get a cash payment that

25   month because now he's above the threshold. But

1   the Medicare fraction, I thought, was not about

2   how much cash a patient had in any particular

3   month. It's about how costly it would be to

4   treat this person. And I don't understand why

5   it is less or more costly in June, when he has

6   the heart attack, than in May, when he didn't --

7   MR. McDOWELL: Your Honor --

8   JUSTICE JACKSON: -- when he doesn't

9   get the cash payment.

10   MR. McDOWELL: So, Your Honor, I think

11   that understanding of the statute rests on an

12   erroneous premise in Petitioners' argument,

13   which is their misreading of subsection (a),

14   which is entitled "Eligible Individual Under

15   1382." They think that means you look back to

16   the person's income over the last calendar year

17   in the application to see has this person been

18   poor for the last calendar year.

19   If that were how the statute worked, I

20   would agree with you that --

21   JUSTICE JACKSON: But why isn't that

22   the part of the statute that DSH is referring

23   to? I mean, it's clear that that part of the

24   statute says this person, the person for the

25   year, shall be eligible under SSI. That's in

1   the statute.

2   So what I'm asking is, doesn't it make

3   more sense that the DSH program, which is trying

4   to capture people who are low income in this

5   general sense because they will have more

6   serious and more difficult to treat, costly to

7   treat, health issues, why isn't it referring to

8   (a)?

9   MR. McDOWELL: And what I -- what I'm

10   saying is (a) -- they are misreading (a). That

11   is not how (a) works.

12   JUSTICE JACKSON: Okay. So let me --

13   I thought the choice was between (a) and (b).

14   You say the DSH program is referencing (b),

15   which is -- or, sorry, (c), excuse me, which is

16   the provision that says you get a payment in a

17   particular month. And my question to you is,

18   why would Congress care about whether you're

19   getting a payment in a particular month as the

20   marker of whether you are low income and it's

21   more costly?

22   MR. McDOWELL: Because that is the

23   entirety of the SSI statute. (a) does not work

24   the way that Your Honor is posting. (a) is

25   establishing the income limit for SSI

1   eligibility. It's phrased in terms of a

2   calendar rate, but it is set monthly according

3   to subsection (c)(1).

4   And just to give you -- just to

5   explain why textually that has to be right,

6   Section 1382b is about --

7   JUSTICE JACKSON: I'm not asking you a

8   textual argument. I'm ask -- I'm just asking

9   you a purpose. You -- your argument seems to

10   result in people who get cash payments who have

11   the exact same income level as someone who

12   didn't get a cash payment, one is counted and

13   one is not. And what I'm asking you is, why

14   would Congress have set up the DSH program to

15   make that distinction?

16   MR. McDOWELL: Because Congress picked

17   up the SSI entitlement proxy as an off-the-rack

18   proxy. It was a preexisting metric. It existed

19   in 19 -- since 1972. Congress was acting in

20   1986. It just picked up this indirect proxy

21   measure. It doesn't have to be perfect a

22   hundred percent of the time. Theirs is not

23   perfect a hundred percent of the time either, as

24   Justice Gorsuch's hypothetical shows.

25   And my point is that ours is more

1   precise at capturing low-income people because

2   we are looking to whether they establish

3   low-income status and --

4   JUSTICE SOTOMAYOR: So let's talk to

5   that, okay, whether it is more precise. Let me

6   give you the hypotheticals. Someone's eligible,

7   joins SSI in January, is hospitalized in

8   January, but they receive no cash payment in

9   January. They're going to get it on February 1

10   because they just joined the program.

11   Are you including those people?

12   MR. McDOWELL: So, if they just

13   joined, under the statute, those would not --

14   those people would not be entitled to benefits

15   in the first month. And I think that --

16   JUSTICE SOTOMAYOR: Even though they

17   are eligible because their -- they didn't make

18   more money? They should be. It's only they

19   happen to join the program the month they got

20   sick?

21   MR. McDOWELL: Your Honor, they're not

22   eligible. That's an eligibility criteria. It

23   says you're not eligible for payment until the

24   second month after your application, and it's

25   basically --

```
1              JUSTICE SOTOMAYOR:  All right.  So

2    it's not capturing people with low income even.

3              MR. McDOWELL:  So --

4              JUSTICE SOTOMAYOR:  So your -- you

5    made a statement.  We now have a group of people

6    that are not captured at all.

7              Then you have the second hypothetical,

8    which is that her income was high in January, so

9    on February 1, her income has gone back down,

10   but she's not going to get a payment because, on

11   -- in January, her income was high.

12             MR. McDOWELL:  That's -- that's not

13   correct, Your Honor.

14             JUSTICE SOTOMAYOR:  Oh.

15             MR. McDOWELL:  That is based on a

16   misreading of (c)(1) and (c)(2) of -- of

17   Section 1382.  So Section (c)(2) would apply in

18   the situation where someone is transitioning

19   from ineligibility in a month to eligibility in

20   the month.  And what (c)(2) says is that in your

21   first month back into eligibility, you look at

22   your income in that month to determine whether

23   the person is entitled to benefits.

24             JUSTICE SOTOMAYOR:  But she still

25   didn't get a check.
```

1   MR. McDOWELL: She would get a check,

2   is what I'm saying.

3   JUSTICE SOTOMAYOR: But when -- when

4   is she going to see it? She's not going to see

5   it on February 1.

6   MR. McDOWELL: She would see it in

7   February -- she would get it -- she would get

8   the check for purposes of February.

9   And our rule does not turn on whether

10   she actually receives the payment. Our rule is

11   not an actual receipt rule. We've explained

12   that extensively in the 2010 regulation. We do

13   not apply an actual receipt test. We look to

14   whether someone satisfies the statutory

15   requirements for a cash payment during the

16   relevant month in question. Whether they

17   actually receive a check is irrelevant.

18   JUSTICE BARRETT: I'm -- I'm confused

19   about that, actually, because I was asking your

20   friend on the other side these questions about,

21   well, if there was some snafu because it bounced

22   because of an address or something like that,

23   whether they were challenging those codes, and

24   she said no.

25   But why isn't that an actual receipt

1   rule if those people are excluded?

2   MR. McDOWELL: They're -- so the way

3   that works is, if they provide an address later

4   in a -- in a subsequent month, we will go back

5   and retroactively reinstate benefits for the

6   prior month, and then that retroactive

7   reinstatement will be counted for purposes of

8   the numerator. So those -- those people will be

9   reflected in the numerator because, when -- once

10   they provide the address, we will go back and --

11   JUSTICE BARRETT: Retroactively? So

12   then the hospital gets the benefit of the

13   different DSH fraction later?

14   MR. McDOWELL: Exactly, because our

15   data set goes 15 months beyond the end of the

16   fiscal year precisely so that we can capture

17   those retroactive benefits reinstatements once

18   suspensions are lifted for administrative

19   reasons. That's, again, in the 2010 rule. We

20   discuss it towards the end of our brief.

21   JUSTICE KAVANAUGH: Can I ask about

22   the similarities --

23   MR. McDOWELL: Yeah.

24   JUSTICE KAVANAUGH: -- and differences

25   with the Medicare? So, as you're exploring

1   these answers, you can bounce in and out of

2   actually receiving social -- I mean SSI

3   payments. You're in the program, they say, for

4   a year, but you might not receive payments in a

5   particular month. Right so far?

6   Medicare, the argument on the other

7   side is similar in the sense that you're in the

8   program, you qualified for Medicare, but you

9   might have private insurance. Lots of people

10   do. And, therefore, any particular hospital

11   stay in a given day, week, month might be paid

12   for by your private insurance, not by Medicare.

13   So, even though you're not getting Medicare

14   payments, Medicare is paying zero, that, we said

15   in Empire, is still going to be counted because

16   you're in the program.

17   So what's the difference between those

18   two things?

19   MR. McDOWELL: The difference goes to

20   the structure of the statute. So, with Medicare

21   Part A, there is a threshold eligibility

22   determination, which is whether you're over 65

23   or have received disability benefits for 25

24   months. Once you get that, through that

25   threshold step, you're into the program and you

1   are entitled to a broad array of benefits. It's

2   not just the in-patient hospital care coverage.

3   It's post-hospital care, hospice care, home

4   healthcare. And --

5   JUSTICE KAVANAUGH: But how is that

6   relevant to the question here, which is --

7   MR. McDOWELL: Right.

8   JUSTICE KAVANAUGH: -- I thought,

9   looking at payment?

10   MR. McDOWELL: Right. So -- and that

11   -- that gets to the second layer of

12   determinations under Medicare Part A. Each of

13   those benefits has different payment

14   limitations. So that -- that's what was at

15   issue in Empire Health essentially.

16   JUSTICE KAVANAUGH: Mm-hmm.

17   MR. McDOWELL: Here, there's only one

18   determination. It's all about month-to-month

19   payment determination. There's no threshold

20   program eligibility determination because that's

21   not what subsection (a) does.

22   Subsection (a) just establishes an

23   income limit for SSI eligibility that is applied

24   on a month-to-month basis under (c)(1).

25   Subsection (a) is not its own threshold --

1   JUSTICE KAVANAUGH: But it seems to me

2   -- I don't mean to press too hard, but it seems

3   to me you're suggesting that there are multiple

4   reasons Medicare might not pay maybe, and

5   there's only one reason that SSI might not pay?

6   Is that what you're suggesting?

7   MR. McDOWELL: What I'm trying to say

8   is that their argument is that this is different

9   because -- or it's the same because they're both

10 programs. And it's -- our -- our point is that

11 this is not a program the same --

12   JUSTICE KAVANAUGH: They're both

13 programs in which you could be receiving payment

14 in a relevant period but not for the precise

15 period that you're in the hospital?

16   MR. McDOWELL: Right. And the

17 difference is the structure of the benefits

18 statutes. So SSI is all about month-to-month

19 payments. There is no threshold --

20   JUSTICE KAVANAUGH: But you can't

21 be -- am I right that you can't be terminated

22 from the program until, for a period of 12

23 consecutive months, your income has not exceeded

24 -- or maybe 11 --

25   MR. McDOWELL: That's not how,

         1   actually, it works at least in -- in practice.

         2   So the way that that works is we

         3   terminate someone's name from the administrative

         4   database, but we don't consider them part of a

         5   broader program in the same sense as Medicare

         6   Part A. So, basically --

         7   JUSTICE KAVANAUGH: When do you

         8   terminate them from the database?

         9   MR. McDOWELL: After 12 months of

        10   ineligibility. And I actually think that's

        11   extremely important --

        12   JUSTICE KAVANAUGH: But they're in the

        13   database. So let's say you drop out -- I'm

        14   sorry to prolong it, but it's important to me at

        15   least. You drop out for a month. The next

        16   month -- because your income's gone above the

        17   limit. The next month, your income is below the

        18   limit. Do you have to do anything to receive

        19   the benefits in that next month?

        20   MR. McDOWELL: You don't need to do

        21   anything -- well, you would have had to tell

        22   them when -- when you go from eligibility to

        23   ineligibility. You're supposed to report

        24   changes in your status so that they know.

        25   JUSTICE KAVANAUGH: That's not the

1   question.

2   MR. McDOWELL: Right. The --

3   JUSTICE KAVANAUGH: The question's:

4   In the next month --

5   MR. McDOWELL: Right.

6   JUSTICE KAVANAUGH: -- when your

7   income goes below the limit, do you have to do

8   anything to receive the benefits in the next

9   month? I think your answer was no.

10   MR. McDOWELL: If -- so, if you're

11   transitioning from eligibility to ineligibility

12   or vice versa, you do have to report those

13   changes to SSA.

14   I -- what I was going to say --

15   JUSTICE JACKSON: But you don't have

16   to reapply, right? I think that's Justice

17   Kavanaugh's question.

18   MR. McDOWELL: Right. And -- and my

19   point --

20   JUSTICE KAGAN: Mr. McDowell -- go

21   ahead. I'm sorry.

22   JUSTICE KAVANAUGH: Well, I'm not

23   done. I'm not done.

24   MR. McDOWELL: Okay. My point about

25   the application is that the application is

1   actually just a monthly application. In the

2   application, they are just looking at your

3   income in that month. It's essentially the same

4   thing as the later determinations; it's just in

5   a form as opposed to done more seamlessly.

6   But the actual substantive criteria --

7   if you look at the application, they are asking:

8   Are you low income in the month of your

9   application and in subsequent months, while your

10   application might be pending? There's no

11   question on the application that goes back and

12   says: Have you been low income for the last

13   year?

14   JUSTICE KAGAN: If I could understand

15   this, you know, because these -- these are

16   really important questions.

17   What you're saying is that in

18   Medicare, we were looking at a program where,

19   even if you had reached the cap for hospital

20   care, there were many other kinds of medical

21   care that one could access the insurance program

22   for. You could access it for home health. You

23   could access it for outpatient treatment. You

24   could keep getting stuff from Medicare even

25   though you had reached the cap on hospital care,

1   is that correct?

2   MR. McDOWELL: That's exactly right.

3   JUSTICE KAGAN: And we all know that

4   health insurance works that way because we reach

5   the cap on one thing and we keep on benefitting

6   from our insurance on another thing, right?

7   That's just the way insurance --

8   MR. McDOWELL: Exactly, yes.

9   JUSTICE KAGAN: -- health insurance

10   works.

11   But you're saying that, here, there's

12   only this cash stream.

13   MR. McDOWELL: Correct.

14   JUSTICE KAGAN: There's only the

15   monthly payments that one is getting.

16   MR. McDOWELL: That's right.

17   JUSTICE KAGAN: Then the question is:

18   Okay, well, what about these references to the

19   annual -- you know, what -- what about these

20   annual measures? Aren't you sort of in the

21   program for a year even though you're not

22   getting payment for particular months? Right?

23   MR. McDOWELL: Yes.

24   JUSTICE KAGAN: And -- and there are

25   those references in the statute. What are they

1   there for?

2   MR. McDOWELL: So they are in

3   Section 1383, which is captioned "Procedures for

4   Payments." They are administrative housekeeping

5   provisions. One says you are in SSA's

6   administrative database for a year, until

7   you're -- you've been ineligible for 12 straight

8   months.

9   That provision was added 14 years

10   after the statute was enacted. It was added in

11   1986. And it was simply meant to codify SSA's

12   existing administrative practice of removing

13   people from the database. It wasn't meant to

14   change the fundamental scope of the entitlement

15   under Section 1382.

16   JUSTICE KAGAN: And the fact that you

17   don't have to apply -- I mean, this is a very --

18   reapply for, you know, 12 months' time, this is

19   a pretty sensible provision from everybody's

20   perspective, right?

21   MR. McDOWELL: Yes.

22   JUSTICE KAGAN: Because the --

23   Congress knew that people were going to come in

24   and out. Some months they were going to be

25   above the threshold. Some months they were

 1   going to be below the threshold. So some months

 2   they were going to get monthly benefits and some

 3   months they weren't.

 4   But to have everybody reapplying every

 5   month as that happened didn't make sense for

 6   anybody. It didn't make sense for the people

 7   who were giving the benefits, and it didn't make

 8   sense for the people who were receiving the

 9   benefits.

10   MR. McDOWELL: That's exactly right.

11   And I just -- just to focus on

12   Section (j)(1) of 1383, I think this is an

13   important textual point. It refers to those 12

14   months as months of ineligibility.

15   So, under Petitioners' view, a person

16   is both eligible for the program, eligible for

17   benefits, and ineligible for benefits in the

18   same month.

19   JUSTICE GORSUCH: Well --

20   MR. McDOWELL: And I think that's not

21   a coherent reading of this statute.

22   JUSTICE GORSUCH: -- may I pursue that

23   just a little bit?

24   MR. McDOWELL: Yeah.

25   JUSTICE GORSUCH: You mentioned 1383.

1   And one of the provisions in 1383, Mr. McDowell,

2   concerns the ability of SSA to secure financial

3   records, and it says that it continues "until

4   the cessation of the recipient's eligibility of

5   benefits."

6   Doesn't that suggest that eligibility

7   for benefits doesn't fluctuate from month to

8   month? Because, otherwise, SSA, I suppose,

9   wouldn't be able to access a recipient's records

10   for the months in which his income goes above

11   the threshold.

12   MR. McDOWELL: So that is the only

13   term --

14   JUSTICE GORSUCH: I -- I -- I know.

15   That's why I'm picking --

16   MR. McDOWELL: -- it's the only

17   reference in the statute.

18   JUSTICE GORSUCH: -- I'm picking the

19   hardest one for you.

20   MR. McDOWELL: And -- and -- and what

21   SSA has said is that we're going to read this in

22   a beneficiary-friendly way. We're going to look

23   to -- we're going to say beneficiaries only have

24   to re-authorize -- or authorize at the outset

25   because, if they had to reauthorize every single

1   month, they would lose benefits if they forgot

2   to reauthorize in a particular month.

3   It's an application essentially of

4   utility error, which is -- which says that

5   the -- the canon of consistent usage will yield

6   where the result would be unworkable. That's

7   what SSA has said as to this particular

8   provision. But everywhere else in the statute,

9   it reads "eligibility" to be month-to-month

10   payment eligibility.

11   JUSTICE GORSUCH: But, here, it

12   doesn't mean that. It means the 12 months.

13   MR. McDOWELL: Only because the result

14   would be unworkable and bad for everybody,

15   including beneficiaries, so it has taken that

16   one isolated interpretation out.

17   JUSTICE GORSUCH: Just two more quick

18   questions.

19   One, the D.C. Circuit, in places,

20   seemed to adopt an actual receipt rule, which

21   you have disavowed. Would an affirm, in your

22   view, be the appropriate -- that's what your

23   brief asks us to do, is affirm. Is that the

24   appropriate remedy given some of the language in

25   the D.C. Circuit opinion talking about actual

1   receipt?

2   MR. McDOWELL: Your Honor, in the

3   relevant portion of the opinion analyzing the

4   question presented here, the D.C. Circuit says:

5   HHS reads the provision to cover only Medicare

6   beneficiaries who are entitled to SSI cash

7   payments at the time of their hospitalization.

8   That's at Pet. App. 9. That's exactly

9   our position. Judge Katsas absolutely

10   understood our position, went through the

11   arguments, and adopted the correct reading. He

12   did not think that we were applying an actual

13   receipt rule.

14   JUSTICE GORSUCH: Right. And then if

15   you could address the concern that some of the

16   amici have raised about what this would mean to

17   rural and urban hospitals.

18   MR. McDOWELL: Yes. So we -- we

19   understand the DSH payments are critical to

20   hospitals. And we provide billions of dollars

21   in DSH payments each year. In 2024, it was

22   approximately 9.2 billion for hospitals under

23   this program, under DSH.

24   And what the Court said, though, in

25   Empire Health is that the point of the DSH

1   provision is not to provide the most money

2   possible to hospitals. It's to compensate

3   hospitals for serving a disproportionate share

4   of low-income patients.

5   And we don't think that the statute

6   authorizes us to provide any more DSH payments.

7   We think that the statutory text unambiguously

8   prevents us from putting out more DSH payments

9   under this provision.

10   JUSTICE JACKSON: Can you help me to

11   understand why you think that there aren't

12   threshold eligibility criteria in this statute?

13   MR. McDOWELL: Yes.

14   JUSTICE JACKSON: You pointed to 1383.

15   But what about 1381a and 1382a, both of which

16   seem to be pointing to age, blindness, and

17   disability as threshold criteria, in addition to

18   income? And if that's the case, I'm wondering

19   why those aren't the kinds of things that one --

20   the government assesses at the outcome to

21   determine your eligibility for the program, and

22   then they may do the monthly assessment of

23   income pursuant to the rest of the statute.

24   MR. McDOWELL: We assess those things

25   at the outset, but we also reassess them every

1   month. It just so happens that someone can't

2   age backwards. So, of course, we don't go back

3   and --

4   JUSTICE JACKSON: Right. But what

5   about disability? Each application -- every

6   monthly application, when you call up and you

7   say, please give me the check, I've fallen out

8   one month, do -- do they reassess your

9   disability status?

10   MR. McDOWELL: The statute gives SSA

11   discretion to determine when to make these

12   reevaluations.

13   JUSTICE JACKSON: No, no, no, I'm not

14   asking discretion. I'm asking: What does the

15   government do?

16   MR. McDOWELL: In --

17   JUSTICE JACKSON: Because it seems to

18   me that if the government does not reassess the

19   threshold criteria of disability, then you're in

20   the program based on the government's initial

21   disability determination, correct?

22   MR. McDOWELL: I disagree, Your Honor,

23   because we don't reassess disability every

24   single month. We do do periodic reassessments.

25   But, still, the entitlement is a month-to-month

1   entitlement because the entitlement is not based

2   solely on --

3   JUSTICE JACKSON: No, I understand the

4   payment is made on a month-to-month basis, but

5   you make the payment only to the category of

6   people who also meet age and disability criteria

7   that you assess only at the beginning.

8   MR. McDOWELL: But --

9   JUSTICE JACKSON: So what I'm asking

10   you is: Isn't that initial assessment the same

11   kind of thing as the threshold determination

12   that happens in most benefit programs, and then

13   you're in the program and then the monthly

14   assessment occurs to give you the benefit or

15   not?

16   MR. McDOWELL: No, Your Honor,

17   because, with respect to Medicare Part A, you

18   get into the program by being 65. Then you're

19   in, and you get access to all of the benefits

20   from the threshold.

21   Here, just because you're disabled in

22   the first month does not mean that you are into

23   a program. You still have to show every single

24   month that your income is below the income

25   limit. And just to point to Section 1381a,

1   that -- that text refers to a determination of

2   eligibility on the basis of income and

3   resources.

4   JUSTICE JACKSON: Yes, and then 82t --

5   MR. McDOWELL: That is a monthly --

6   JUSTICE JACKSON: -- excuse me, then

7   1382a is set up to look at the income and

8   resources, and then it says, "shall be an

9   eligible individual."

10   It seems to me very clear that the

11   statute is set up to make a threshold

12   determination of who is eligible on the basis of

13   income and resources given those provisions that

14   I just outlined.

15   MR. McDOWELL: Your Honor, I disagree.

16   And just to point you to 3 -- 1382b(1), that

17   also refers to the benefit amount at -- in terms

18   of an annual rate.

19   JUSTICE JACKSON: Yes, but that's in

20   procedure. That's all -- we've already

21   determined --

22   MR. McDOWELL: 1382b -- b --

23   JUSTICE JACKSON: Excuse me.

24   MR. McDOWELL: -- 1382b(1).

25   JUSTICE JACKSON: I see. Sorry.

1   MR. McDOWELL: Yes. So that's at 5A

2   of the statutory appendix to our brief.

3   JUSTICE JACKSON: Yes.

4   MR. McDOWELL: That is talking about a

5   rate of the amount of benefits for the calendar

6   year. And everyone agrees that SSA does not

7   have to pay benefits annually. It has always

8   been converted into a monthly amount. And

9   Petitioners on page 7 of their opening brief

10   concede that that has to be done because

11   subsection (c)(1) requires a monthly payment

12   eligibility determination.

13   (c)(1) is the determination. It's the

14   only determination in the statute. That's the

15   determination that is referenced in 1381a when

16   it talks about determine eligibility on the

17   basis of resources. It points you to (c)(1).

18   And if you look at (c)(1), which is at

19   6A of the appendix to our brief, it says "an

20   individual's eligibility for a benefit" --

21   JUSTICE JACKSON: I'm sorry, how --

22   how can you get to (c)? 1382a -- 1382, (1)

23   says, right, you make a determination of their

24   eligibility on the basis of income and

25   resources. Then, when you get to 1382a, which

1   is the next provision, it says "eligible

2   individual defined," and it is set up to make

3   the determination on the basis of income and

4   resources.

5   MR. McDOWELL: Your Honor, that income

6   metric is converted into a month-to-month limit.

7   JUSTICE JACKSON: No, I understand.

8   MR. McDOWELL: It's -- okay.

9   JUSTICE JACKSON: I understand.

10   MR. McDOWELL: Right. Right. So

11   there's --

12   JUSTICE JACKSON: I'm just saying, but

13   isn't 1382a relevant to the determination of who

14   is an eligible individual?

15   MR. McDOWELL: It is relevant to the

16   income -- to the income criterion, yes, that is

17   relevant. What I'm saying is it's converted

18   into a monthly limit because this whole statute

19   is inherently month to month. It's designed as

20   a month-to-month statute.

21   JUSTICE KAVANAUGH: On the question of

22   insurance, I think in your briefs, a lot of your

23   argument -- maybe not a lot -- but some turned

24   on this is not insurance. And you heard what

25   your friend on the other side said in response

1   to that, that this really functions just like

2   insurance.

3   MR. McDOWELL: Yeah, I would make a

4   few points about that. The first is, as a

5   textual matter, Congress expressly referred to

6   Medicare Part A as insurance. It did that in 42

7   U.S.C. 426 and 42 U.S.C. 1395c. It never called

8   SSI insurance.

9   And I don't think SSI functions like

10   an insurance program in two particular ways.

11   First, insurance, as the Court explained in

12   Empire Health, is -- it's very natural to talk

13   about the entitlement to insurance as being

14   separate and apart from the right to payment

15   because you're still entitled to insurance even

16   if your policy doesn't pay for a particular

17   medical service. Here, everything turns on the

18   right to payment.

19   And then the second difference is

20   that, with SSI, it doesn't insure you against

21   future risks. You can't successfully apply for

22   SSI until you are already low income, whereas,

23   with Medicare Part A, you get in automatically

24   when you're 65 and then it protects you, insures

25   you against any future healthcare expenses

          1   thereafter.

          2   JUSTICE KAVANAUGH: What about the

          3   disability in Medicare?

          4   MR. McDOWELL: The disability in

          5   Medicare is -- is a little bit different, but

          6   the Court in that case relied on the fact that

          7   --

          8   JUSTICE KAVANAUGH: If you're under 65

          9   and disabled, that's -- you apply, right?

         10   MR. McDOWELL: That's right. But the

         11   Court in -- in Empire Health specifically said

         12   that the entitlement to Medicare Part A is

         13   automatic. And the reason why it said that is

         14   because the vast majority of Medicare

         15   beneficiaries are -- are getting it because

         16   they're over 65, and so --

         17   JUSTICE KAGAN: I think that the --

         18   Ms. Sherry's idea for how this is insurance --

         19   and she'll correct me if I'm wrong -- but the --

         20   the idea is that even if you run over the

         21   threshold in a particular month, that you know

         22   that you're going to get the benefit in the next

         23   month when you go under the threshold, even

         24   without a reapplication.

         25   So the insurance, which she said

     1   really -- isn't really insurance; it's sort of

     2   assurance -- is that I have an assurance for a

     3   period of a year that I won't have to reapply

     4   when I go under the threshold again.

     5   So what should we make of that?

     6   MR. McDOWELL: So I agree that you

     7   don't have to submit a new application, but you

     8   will be subject to another determination.

     9   You'll have to tell them when you become

    10   ineligible. They'll have -- then you'll have to

    11   tell them when you think you're going to be

    12   eligible again. And they're going to take

    13   another look at it. You don't have to submit a

    14   paper application again, but there is another

    15   determination.

    16   In Medicare Part A, there's just the

    17   threshold eligibility determination, and then

    18   you're in the program and you get access to this

    19   wide array of benefits. So it's quite

    20   different.

    21   JUSTICE KAVANAUGH: On the

    22   consequences that Ms. Sherry talked about for

    23   the hospitals, are you saying those are -- as a

    24   factual matter, you disagree with the predictive

    25   judgment in the amicus brief and in the

```
 1    Petitioners'?  Or are you saying, yeah,

 2    hospitals could close, but that's the nature of

 3    a program and the limited resources?

 4              MR. McDOWELL:  Well, Justice

 5    Kavanaugh, it's -- it's not as if -- this has

 6    been the longstanding position.  This has been

 7    the position since 1986.  So it's not as if how

 8    the Court decides this case is going to

 9    necessarily change the status quo if it agrees

10    with us.  It just will be maintaining the status

11    quo.

12              So -- and then, as to some of the

13    arguments in the amicus briefs, they point to

14    the 340B drug pricing program as kind of another

15    potential harm here, but they don't -- they --

16    they don't fully explain the fact that hospitals

17    will have -- do have other pathways of getting

18    into that program.  It's not just based on the

19    DSH percentage.

20              JUSTICE KAVANAUGH:  I think there are

21    three things.  You might not qualify for DSH at

22    all.  If you do qualify -- because of the

23    cutoff, the 15 percent.  If you do qualify, the

24    benefits might be less.  And you might not

25    qualify for 330 -- 40B.  Those are the three
```

1   buckets of things, right?

2   MR. McDOWELL: So I don't disagree as

3   a factual matter that if you don't qualify for

4   the 15 percent, that you're not part of the DSH

5   payment program. But I will say that one thing

6   that is important is that the ACA has already

7   changed the status quo here because it has

8   reduced -- it's diminished the importance of

9   this Medicare fraction formula already because

10   now, for a hospital's DSH payment, 25 percent is

11   based on this formula, where previously it was a

12   hundred percent. And now it's 25 percent. And

13   75 percent is based on the rate of uncompensated

14   care, which is a totally different metric.

15   JUSTICE KAVANAUGH: I think your

16   answer then is their predictive judgment's wrong

17   because this is the way it's been. Is that --

18   MR. McDOWELL: That -- that's

19   essentially correct. And I will say that I --

20   they -- they put out a $1.5 billion number in

21   their cert petition on page 18. They don't

22   explain how they get to that number. They don't

23   --

24   JUSTICE KAVANAUGH: Well, they say

25   you're not giving them the data to figure it

1   out. So that's --

2   MR. McDOWELL: Well, Your Honor, the

3   D.C. --

4   JUSTICE KAVANAUGH: -- a little rich

5   from their perspective. Yeah.

6   MR. McDOWELL: -- the D.C. Circuit

7   already considered that argument and rejected

8   it, and it's not before the Court. And I -- I'm

9   happy to speak to that data issue. I mean, I

10   think --

11   JUSTICE KAVANAUGH: That's okay.

12   That's probably too in the weeds, yeah.

13   CHIEF JUSTICE ROBERTS: Thank you --

14   thank you, counsel.

15   Justice Thomas?

16   Justice Alito?

17   Justice Gorsuch, anything further?

18   Okay. All right.

19   Justice Jackson?

20   Thank you, counsel.

21   Rebuttal, Ms. Sherry?

22   REBUTTAL ARGUMENT OF MELISSA ARBUS SHERRY

23   ON BEHALF OF THE PETITIONERS

24   MS. SHERRY: Thank you, Your Honor.

25   So starting with the program

1   eligibility issue, Justice Jackson, we agree

2   with your reading of the statute both in terms

3   of 1381a and 1382 subsection (a). It talks

4   about in a calendar year these are eligibility

5   requirements. Disability is not reassessed on a

6   monthly basis. In fact, one of the provisions

7   we point to on page 26 of our brief is one that

8   shows that redetermination can occur annually,

9   every few years, what have you. And so there is

10   this broader concept per statute of program

11   eligibility.

12   What they really are saying is, yeah,

13   okay, but that's not what we do in practice.

14   You know, we -- in practice, we look at it on a

15   month-to-month basis and we ask for only a month

16   of financial information. I actually think the

17   application asks for about 14 months. And I

18   think, per statute, it would be very strange to

19   approve an application for someone who says I

20   have no money in this month because I spent all

21   my money and I'm unemployed, but I just got a

22   new job, and starting next month I'm going to

23   make a million dollars a year. I don't think

24   that person would be SSI-eligible under the

25   terms of the statute.

1 And you can look beyond that. If you

2 look at the charts that we pointed to that are

3 in the Joint Appendix from the court of appeals,

4 what it's measuring is duration of eligibility,

5 meaning from the very beginning when the

6 application is approved to when you're kicked

7 out of the program. That's what the termination

8 numbers are. And so this isn't a concept that

9 we've made up. It's in the statute. It's in

10 their regulations. It's in the statistics that

11 they keep.

12 The second point has to do with

13 insurance. The question here isn't really

14 whether it's called insurance. It's whether it

15 functions like an insurance program in the

16 relevant respect. And it does. And, Justice

17 Kagan, you're right, it's a form of assurance.

18 It's a safety net. It functions in the same

19 way.

20 And the fact that it doesn't take

21 account -- I mean, it's not health insurance,

22 but there's things like unemployment insurance

23 that function in a similar way. It's called

24 insurance. It's different than Medicare, but

25 what matters for DSH purposes is not whether

1   it's "insurance" but whether or not there is

2   something bigger than just the individual

3   monthly check to people on the street. And

4   there is.

5   To that point, it is more than just

6   cash. There are non-cash benefits. And so it's

7   similar to Medicare Part A in that respect too,

8   whereas someone is not entitled to cash payment

9   in a given month. And these are individuals who

10   are disabled, which is about 85 percent of the

11   SSI population. They're entitled to Medicaid

12   continuation, they're entitled to vocational

13   rehabilitation, both in Title XVI.

14   And just to point the Court -- because

15   I think there's some confusion when it comes to

16   Ticket to Work in the briefing. This didn't

17   come about until 1999. But, if you look at that

18   particular statute and you look specifically at

19   subsections (c)(1) and (j)(1)(b), it just takes

20   you right back into Title XVI and right back

21   into 1382d.

22   Fourth point has to do with this time

23   lag issue. I think there is confusion in the

24   brief and, frankly, confusion that we have about

25   how they account for these individuals, whether

 1   they're paid in the current month, what that's

 2   based on, and whether or not they're counted.

 3   I agree with the reading of the

 4   statute. If you look at (c)(2) and you look,

 5   actually, at the regulations, 416.420, it does

 6   seem like those individuals should be getting a

 7   check and it seems like they should be counted.

 8   It's just not clear whether they are.

 9   And we get that from the program's

10   operation manual. If you look at 2005.001, it

11   seems to say: We do this measurement based on

12   months prior, and you may not be

13   payment-eligible in a month because of what you

14   made in a prior month.

15   So it's not clear what's happening on

16   the ground. And I think that goes to the point

17   of the -- our 1.5 billion figure. Notably, they

18   haven't come up with a figure of their own.

19   They're the ones that have this information.

20   They have no counter-number.

21   And we are in a position where we

22   can't look behind the curtain. We don't have

23   access to the data. That's our best estimation

24   of what the delta is. And they don't come up

25   with a contrary number to that, which I think

1   just gets us back to DSH and to the purposes of

2   DSH.

3   They say what you should be counting

4   are individuals who are low income in the

5   hospital month. But they don't address the fact

6   that their interpretation simply does not count

7   those individuals. They don't count the nursing

8   home patient. They don't count the first month,

9   as -- as the answer to the question revealed.

10   They don't count those in prison. They don't

11   count those who violate a parole or probation.

12   And they don't count those in administrative

13   suspension.

14   I think the actual receipt test and

15   where there's confusion is maybe just one of

16   semantics. It's true that if those individuals

17   are no longer suspended when they run the

18   15-month eligibility file, then they'll count

19   them. But, if they still are, then they don't

20   count them.

21   And so there's individuals where they

22   need to have a representative payee accept their

23   check. They're eligible, they're absolutely

24   due, they don't have someone who can accept the

25   check. Those people are not counted, and that's

1   what matters for DSH purposes.

2   CHIEF JUSTICE ROBERTS: Thank you,

3   counsel.

4   MS. SHERRY: Thank you.

5   CHIEF JUSTICE ROBERTS: The case is

6   submitted.

7   (Whereupon, at 11:16 a.m., the case

8   was submitted.)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

billions [1] **64**:20
bit [4] **32**:10 **45**:18 **61**:23 **72**:5
blind [1] **39**:20
blindness [1] **65**:16
boils [1] **22**:14
bookends [1] **21**:16
both [13] **5**:14,15 **14**:12 **15**:1,4 **22**:12 **42**:23 **55**:9,12 **61**:16 **65**:15 **77**:2 **79**:13
bottom [2] **25**:9 **30**:17
bounce [1] **53**:1
bounced [1] **51**:21
box [1] **7**:22
boxes [1] **18**:14
brief [11] **9**:23 **13**:4 **37**:20 **52**:20 **63**:23 **69**:2,9,19 **73**:25 **77**:7 **79**:24
briefing [2] **36**:17 **79**:16
briefs [5] **15**:5 **37**:3,23 **70**:22 **74**:13
brings [1] **45**:23
broad [2] **14**:21 **54**:1
broader [2] **56**:5 **77**:10
brought [1] **13**:20
buckets [1] **75**:1

C

c)(1 [8] **48**:3 **50**:16 **54**:24 **69**:11,13,17,18 **79**:19
c)(2 [4] **50**:16,17,20 **80**:4
calculation [1] **6**:24
calendar [7] **4**:8 **23**:15 **46**:16,18 **48**:2 **69**:5 **77**:4
call [6] **10**:20 **18**:13,15 **38**:22 **40**:10 **66**:6
called [4] **4**:3 **71**:7 **78**:14,23
calling [1] **41**:5
came [1] **1**:15
canon [1] **63**:5
cap [6] **29**:8,11 **39**:2 **58**:19,25 **59**:5
captioned [1] **60**:3
capture [2] **47**:4 **52**:16
captured [1] **50**:6
capturing [3] **44**:22 **49**:1 **50**:2
care [10] **29**:9,9 **47**:18 **54**:2,3,3 **58**:20,21,25 **75**:14
Case [9] **3**:4 **6**:11 **18**:8 **40**:24 **65**:18 **72**:6 **74**:8 **82**:5,7
cash [33] **4**:2,9 **5**:3 **14**:24 **17**:25 **24**:6 **28**:14 **29**:16 **32**:2 **38**:19 **39**:7 **40**:1 **42**:5,14 **43**:3,5,7,9,13,17 **45**:18,23,24 **46**:2,9 **48**:10,12 **49**:8 **51**:15 **59**:12 **64**:6 **79**:6,8
catchy [1] **19**:18
categories [1] **30**:4
category [3] **11**:6,19 **67**:5
CENTER [2] **1**:3 **3**:5
cert [1] **75**:21
certain [7] **26**:24 **27**:23 **34**:

24 **36**:1 **39**:21,22 **43**:14
certainly [1] **11**:25
cessation [2] **13**:9 **62**:4
challenge [2] **9**:3,14
challenges [2] **8**:23 **9**:1
challenging [3] **8**:16,22 **51**:23
change [4] **4**:16 **30**:16 **60**:14 **74**:9
changed [1] **75**:7
changes [2] **56**:24 **57**:13
chapter [1] **29**:2
charge [1] **7**:9
charts [1] **78**:2
check [25] **4**:22 **6**:11 **8**:5 **10**:9,13 **11**:16,21 **18**:15 **19**:5 **23**:21 **39**:3,5 **40**:6 **41**:2,7,13 **50**:25 **51**:1,8,17 **66**:7 **79**:3 **80**:7 **81**:23,25
checked [1] **18**:14
CHIEF [10] **3**:3,9 **30**:19 **33**:22 **38**:6 **41**:16,21 **76**:13 **82**:2,5
choice [2] **43**:23 **47**:13
chosen [1] **36**:21
CHRIST [2] **1**:3 **3**:5
Circuit [6] **8**:22,25 **63**:19,25 **64**:4 **76**:6
claim [2] **43**:1,12
clarify [3] **5**:20 **8**:15 **15**:25
class [2] **14**:13 **30**:11
clear [5] **17**:8 **46**:23 **68**:10 **80**:8,15
close [6] **37**:18,21,24 **38**:10,13 **74**:2
closely [1] **25**:7
CMS [2] **9**:21 **10**:17
codes [11] **8**:16,19 **9**:5,14,18,22,25 **10**:14,19 **11**:1 **51**:23
codify [1] **60**:11
coexists [1] **28**:20
coherent [1] **61**:21
colleagues [1] **31**:13
college [1] **23**:19
come [10] **19**:9,10 **23**:25 **30**:2 **35**:2 **36**:14 **60**:23 **79**:17 **80**:18,24
comes [12] **5**:16 **6**:3 **11**:22,23 **14**:9 **26**:8,18 **32**:18 **36**:15 **40**:2 **45**:17 **79**:15
comfort [1] **6**:8
coming [2] **4**:20 **39**:7
common [1] **12**:7
comparable [2] **26**:1 **29**:3
comparison [1] **30**:4
compensate [2] **41**:24 **65**:2
compensating [1] **45**:8
completely [3] **15**:18,22 **18**:18
complicated [1] **16**:16
concede [1] **69**:10
conceive [1] **12**:8

concept [5] **23**:7,14 **28**:18 **77**:10 **78**:8
concern [2] **20**:12 **64**:15
concerned [2] **7**:3 **38**:13
concerns [1] **62**:2
condition [1] **29**:13
conditional [2] **28**:18 **36**:15
conditions [1] **45**:13
conference [1] **14**:7
confirm [1] **13**:15
confuse [1] **8**:2
confused [2] **45**:4 **51**:18
confusion [4] **79**:15,23,24 **81**:15
congratulations [1] **23**:20
Congress [12] **4**:3 **33**:9 **36**:21 **37**:4 **42**:1,11 **47**:18 **48**:14,16,19 **60**:23 **71**:5
Congress's [1] **43**:23
consecutive [2] **39**:12 **55**:23
consequences [1] **73**:22
consider [1] **56**:4
considered [1] **76**:7
consistent [4] **14**:15,17 **42**:17 **63**:5
consistently [1] **42**:10
constructed [1] **38**:12
contexts [1] **20**:3
continuation [8] **5**:7,17 **14**:25 **28**:16 **29**:23 **32**:10 **33**:13 **79**:12
continue [2] **9**:24 **41**:13
continues [1] **62**:3
contrary [1] **80**:25
converted [3] **69**:8 **70**:6,17
correct [15] **8**:15 **15**:23 **17**:2 **25**:20 **35**:14,15,18 **40**:8 **50**:13 **59**:1,13 **64**:11 **66**:21 **72**:19 **75**:19
correctly [1] **10**:2
cost [2] **37**:6 **45**:9
costlier [1] **4**:15
costly [5] **30**:12 **46**:3,5 **47**:6,21
couldn't [1] **34**:5
counsel [6] **8**:13 **30**:20 **41**:17 **76**:14,20 **82**:3
count [18] **4**:18,19,20,22 **6**:14 **7**:25 **9**:25 **14**:11 **43**:20 **44**:24 **81**:6,7,8,10,11,12,18,20
counted [13] **6**:25 **7**:19 **8**:9 **9**:6 **11**:3,18,21 **48**:12 **52**:7 **53**:15 **80**:2,7 **81**:25
counter-argument [1] **32**:25
counter-arguments [1] **32**:6
counter-number [1] **80**:20
counting [7] **7**:10 **9**:2,22 **10**:17,19,22 **81**:3

couple [2] **33**:25 **36**:13
course [2] **15**:10 **66**:2
COURT [20] **1**:1,16 **3**:10,15 **12**:24 **25**:1 **26**:13 **28**:21,23 **36**:8 **41**:22 **42**:17 **64**:24 **71**:11 **72**:6,11 **74**:8 **76**:8 **78**:3 **79**:14
Court's [2] **5**:1 **44**:1
cover [5] **23**:23,24 **24**:1 **34**:8 **64**:5
coverage [2] **36**:10 **54**:2
covered [1] **32**:23
created [3] **4**:3,4 **37**:5
criteria [10] **12**:12 **39**:18,20 **40**:20 **49**:22 **58**:6 **65**:12,17 **66**:19 **67**:6
criterion [1] **70**:16
critical [1] **64**:19
curious [1] **10**:16
current [1] **80**:1
curtain [1] **80**:22
curtains [1] **9**:2
cutoff [1] **74**:23

D

D.C [10] **1**:12,20,23 **8**:22,25 **63**:19,25 **64**:4 **76**:3,6
daily [1] **6**:6
data [4] **52**:15 **75**:25 **76**:9 **80**:23
database [5] **56**:4,8,13 **60**:6,13
day [3] **36**:6,10 **53**:11
days [1] **26**:6
deal's [1] **24**:4
decides [1] **74**:8
deemed [1] **26**:23
defending [3] **9**:19,20,21
defined [1] **70**:2
definition [3] **6**:22 **10**:12 **14**:21
delta [1] **80**:24
denigrating [1] **31**:6
Department [1] **1**:23
depends [2] **9**:15 **24**:20
describe [1] **14**:10
description [1] **23**:1
designed [2] **41**:23 **70**:19
detail [2] **37**:4,24
determination [18] **53**:22 **54**:18,19,20 **66**:21 **67**:11 **68**:1,12 **69**:12,13,14,15,23 **70**:3,13 **73**:8,15,17
determinations [2] **54**:12 **58**:4
determine [6] **16**:4 **44**:4 **50**:22 **65**:21 **66**:11 **69**:16
determined [2] **3**:22 **68**:21
determines [1] **22**:23
determining [1] **42**:3
difference [11] **7**:7 **12**:18 **21**:19 **24**:1,7 **40**:23 **44**:17 **53**:17,19 **55**:17 **71**:19
differences [3] **21**:10,10

52:24
different [28] **6**:17 **8**:17 **10**:5 **15**:8,18,21 **16**:21,22,25 **18**:8 **19**:2 **20**:6,11,18,23 **21**:4 **24**:15 **29**:5 **35**:25 **36**:1,13 **52**:13 **54**:13 **55**:8 **72**:5 **73**:20 **75**:14 **78**:24
differing [1] **10**:4
difficult [4] **37**:15,16,25 **47**:6
diminished [1] **75**:8
direction [1] **21**:12
disability [12] **32**:19 **53**:23 **65**:17 **66**:5,9,19,21,23 **67**:6 **72**:3,4 **77**:5
disabled [5] **25**:19 **39**:21 **67**:21 **72**:9 **79**:10
disagree [6] **31**:2,17 **66**:22 **68**:15 **73**:24 **75**:2
disagrees [1] **3**:24
disavowed [1] **63**:21
discretion [2] **66**:11,14
discuss [1] **52**:20
disproportionate [3] **37**:8 **41**:25 **65**:3
distinct [3] **23**:2 **42**:19,24
distinction [7] **12**:23 **22**:7 **23**:4 **24**:17,19 **38**:20 **48**:15
distinguishes [1] **21**:25
distinguishing [1] **12**:4
doing [2] **9**:21 **10**:2
dollars [5] **26**:25 **27**:16 **30**:15 **64**:20 **77**:23
done [4] **57**:23,23 **58**:5 **69**:10
down [4] **16**:11 **22**:14 **25**:25 **50**:9
draw [1] **11**:4
drawing [1] **38**:20
drop [8] **22**:21 **24**:12,23 **25**:10,13,15 **56**:13,15
dropping [1] **24**:11
drug [1] **74**:14
DSH [47] **3**:14 **4**:12,12,23 **7**:19 **8**:4,8 **11**:23 **12**:15 **13**:20 **14**:3,6,16,17 **16**:1 **19**:9,10 **30**:1,8 **33**:6 **37**:5 **38**:1,2,2,4,11 **41**:23 **44**:21 **46**:22 **47**:3,14 **48**:14 **52**:13 **64**:19,21,23,25 **65**:6,8 **74**:19,21 **75**:4,10 **78**:25 **81**:1,2 **82**:1
due [3] **11**:9,21 **81**:24
duration [1] **78**:4
during [5] **20**:11 **39**:1 **42**:14 **43**:3 **51**:15

E

Each [3] **54**:12 **64**:21 **66**:5
earning [1] **43**:21
effect [1] **21**:5
effort [1] **39**:15
either [6] **6**:25 **16**:19 **20**:19 **21**:16 **24**:17 **48**:23
eligibility [50] **3**:23 **6**:20 **9**:

7 **11**:14 **12**:5,5,13 **13**:10,12,
25 **16**:24,25 **24**:20,22 **26**:2,
19 **33**:16 **38**:3,21,22,24 **39**:
17 **42**:6 **45**:6 **48**:1 **49**:22
50:19,21 **53**:21 **54**:20,23
56:22 **57**:11 **62**:4,6 **63**:9,
10 **65**:12,21 **68**:2 **69**:12,16,
20,24 **73**:17 **77**:1,4,11 **78**:4
81:18

emphasized [1] **21**:6
emphasizes [1] **22**:17
Empire [22] **3**:15 **7**:1,21 **12**:
11,24 **15**:12 **16**:2 **20**:11 **21**:
3,5 **26**:3 **28**:19,22 **29**:7 **36**:
2,17 **42**:18 **53**:15 **54**:15 **64**:
25 **71**:12 **72**:11
enacted [2] **42**:11 **60**:10
end [4] **4**:12 **18**:23 **52**:15,20
enduring [1] **21**:7
enough [4] **4**:6 **10**:8 **23**:22
30:13
enrolled [2] **14**:11 **40**:17
enrollees [1] **14**:14
enrollment [1] **44**:6
ensuring [1] **4**:13
entire [1] **45**:12
entirety [1] **47**:23
entitle [2] **16**:6 **20**:4
entitled [57] **3**:13,16,19 **10**:
13 **11**:16 **12**:21 **14**:18 **15**:6,
10,11,13 **16**:8,10,14,14,19,
21,23 **17**:6,11 **18**:5,6 **19**:19,
19 **20**:2,10 **21**:14,20,22,23
27:3,21 **28**:1,8,17 **34**:17
36:9 **40**:13,19 **41**:9 **42**:12,
19,20,22 **43**:2,8,10,22 **46**:
14 **49**:14 **50**:23 **54**:1 **64**:6
71:15 **79**:8,11,12
entitlement [17] **20**:1,5,5
28:18,20 **36**:15 **38**:22,25
42:2 **43**:24 **48**:17 **60**:14 **66**:
25 **67**:1,1 **71**:13 **72**:12
EPHRAIM [3] **1**:22 **2**:6 **41**:
19
erroneous [1] **46**:12
error [1] **63**:4
especially [1] **5**:16
ESQ [3] **2**:3,6,9
ESQUIRE [1] **1**:20
essentially [5] **33**:3 **54**:15
58:3 **63**:3 **75**:19
establish [1] **49**:2
established [1] **44**:25
establishes [1] **54**:22
establishing [1] **47**:25
estimation [1] **80**:23
ET [1] **1**:4

even [25] **7**:14 **9**:13 **10**:12
20:15 **24**:17 **26**:18 **27**:11
28:11 **29**:8 **30**:7 **34**:9 **36**:9
39:4 **43**:2,20 **44**:7 **49**:16
50:2 **53**:13 **58**:19,24 **59**:21
71:15 **72**:20,23
event [1] **13**:17
everybody [2] **61**:4 **63**:14
everybody's [1] **60**:19
everyone [2] **34**:16 **69**:6
everything [4] **14**:22 **19**:8
20:20 **71**:17
everywhere [1] **63**:8
exact [1] **48**:11
exactly [8] **14**:4 **20**:3 **40**:22
52:14 **59**:2,8 **61**:10 **64**:8
example [4] **25**:22 **26**:6 **30**:
3 **36**:16
exceeded [2] **26**:5 **55**:23
excess [4] **25**:3 **26**:16 **27**:
23 **34**:25
excluded [4] **14**:23 **33**:6,11
52:1
excludes [1] **14**:19
exclusively [2] **33**:5,8
excuse [3] **47**:15 **68**:6,23
existed [1] **48**:18
existing [1] **60**:12
expenses [1] **71**:25
explain [3] **48**:5 **74**:16 **75**:
22
explained [2] **51**:11 **71**:11
explanation [1] **28**:5
exploring [1] **52**:25
expressly [1] **71**:5
extensively [1] **51**:12
extra [3] **39**:7 **45**:19,22
extremely [1] **56**:11
extremes [1] **10**:5

F

facility [1] **6**:6
fact [8] **31**:14 **35**:25 **60**:16
72:6 **74**:16 **77**:6 **78**:20 **81**:
5
factual [2] **73**:24 **75**:3
fall [6] **8**:17 **11**:11 **35**:5 **39**:2
40:9 **44**:7
fallen [1] **66**:7
falling [1] **23**:1
falls [1] **20**:7
far [5] **9**:2 **10**:4 **16**:6 **21**:11
53:5
favor [1] **22**:7
February [6] **45**:16 **49**:9 **50**:
9 **51**:5,7,8
federal [1] **12**:9
few [4] **13**:2 **35**:7 **71**:4 **77**:9
figure [3] **75**:25 **80**:17,18
figuring [1] **8**:10
file [1] **81**:18
filling [1] **41**:1
finances [1] **40**:4
financial [5] **13**:6,8 **41**:11

62:2 **77**:16
find [3] **5**:7,9 **33**:14
first [14] **3**:4 **4**:7,21 **11**:13,
17 **16**:13 **25**:5 **30**:14 **49**:15
50:21 **67**:22 **71**:4,11 **81**:8
fiscal [1] **52**:16
flatly [1] **43**:23
fluctuate [1] **62**:7
focus [5] **17**:4 **20**:22 **22**:25
26:16 **61**:11
focused [1] **31**:13
focusing [3] **14**:13 **20**:16
40:1
following [2] **19**:21 **35**:5
forgot [1] **63**:1
form [5] **17**:18 **18**:22 **41**:1
58:5 **78**:17
formula [4] **37**:14 **44**:3 **75**:
9,11
found [1] **11**:15
fourth [2] **31**:11 **79**:22
fraction [12] **6**:16,23,25 **7**:
22 **12**:15 **14**:3 **42**:1,12,18
46:1 **52**:13 **75**:9
fractions [1] **6**:17
frankly [1] **79**:24
friend [3] **45**:20 **51**:20 **70**:
25
full [3] **6**:7 **27**:4 **28**:2
fully [2] **42**:16 **74**:16
function [1] **78**:23
functions [4] **71**:1,9 **78**:15,
18
fundamental [1] **60**:14
fundamentally [1] **42**:24
funded [1] **32**:16
funding [1] **32**:18
further [1] **76**:17
future [2] **71**:21,25

G

General [2] **1**:22 **47**:5
gets [8] **14**:2 **27**:22 **44**:21
45:20,23 **52**:12 **54**:11 **81**:1
getting [13] **11**:25 **30**:15 **31**:
10 **32**:20,21 **47**:19 **53**:13
58:24 **59**:15,22 **72**:15 **74**:
17 **80**:6
give [7] **18**:14 **24**:25 **45**:10
48:4 **49**:6 **66**:7 **67**:14
given [7] **17**:25 **24**:6 **38**:11
53:11 **63**:24 **68**:13 **79**:9
gives [5] **17**:23 **19**:1 **38**:25
39:20 **66**:10
giving [2] **61**:7 **75**:25
goals [1] **45**:8
golden [1] **34**:6
GORSUCH [19] **26**:21 **27**:8,
13,17,20 **28**:1,6,8,11 **33**:23
61:19,22,25 **62**:14,18 **63**:
11,17 **64**:14 **76**:17
Gorsuch's [2] **34**:2 **48**:24
got [2] **49**:19 **77**:21
government [25] **3**:24 **5**:22

7:10 **9**:19 **11**:10 **13**:11 **18**:
4,25,25 **22**:17 **23**:10 **24**:20,
25 **31**:25 **39**:3,15 **40**:3,8,18
41:6,7,11 **65**:20 **66**:15,18
government's [16] **4**:17 **5**:
10 **6**:13 **7**:15 **8**:2 **9**:16,17
10:12,16 **19**:22 **20**:9,13 **24**:
12 **32**:5,25 **66**:20
graduate [1] **23**:19
ground [2] **20**:18 **80**:16
group [3] **13**:23,24 **50**:5
guarantee [1] **29**:24
guaranteed [5] **4**:7 **23**:15
24:8 **31**:8 **41**:14
guess [2] **16**:17 **38**:12

H

happen [5] **34**:4,5,5 **36**:24
49:19
happened [1] **61**:5
happening [1] **80**:15
happens [4] **9**:1 **36**:20 **66**:
1 **67**:12
happy [1] **76**:9
hard [1] **55**:2
hardest [1] **62**:19
harm [1] **74**:15
HEALTH [26] **1**:8 **3**:15 **4**:15
7:21 **12**:24 **20**:12 **21**:3,5
23:5 **26**:3 **28**:19,22 **29**:7
30:16 **36**:17 **42**:18 **45**:13
47:7 **54**:15 **58**:22 **59**:4,9
64:25 **71**:12 **72**:11 **78**:21
healthcare [2] **54**:4 **71**:25
healthier [1] **12**:1
healthy [2] **4**:14 **30**:12
hear [1] **3**:3
heard [1] **70**:24
heart [1] **46**:6
held [1] **8**:23
help [1] **65**:10
helps [1] **21**:14
hesitate [1] **19**:7
HHS [2] **42**:10 **64**:5
high [2] **50**:8,11
higher [4] **26**:14 **37**:6 **39**:13
45:9
history [1] **14**:6
hold [2] **20**:18 **33**:4
holder [1] **36**:16
home [6] **4**:20 **7**:6 **11**:6 **54**:
3 **58**:22 **81**:8
homes [1] **7**:5
Honor [13] **8**:6 **46**:7,10 **47**:
24 **49**:21 **50**:13 **64**:2 **66**:22
67:16 **68**:15 **70**:5 **76**:2,24
hospice [1] **54**:3
hospital [15] **7**:25 **12**:2 **29**:
9,11 **30**:12 **42**:14 **43**:3,6
52:12 **53**:10 **54**:2 **55**:15 **58**:
19,25 **81**:5
hospital's [3] **8**:10 **30**:17
75:10
hospitalization [3] **44**:24

45:2 **64**:7
hospitalized [1] **49**:7
hospitals [18] **4**:13 **36**:24,
25 **37**:7,9,16,17,21 **41**:24
45:8 **64**:17,20,22 **65**:2,3
73:23 **74**:2,16
housed [2] **5**:14 **32**:12
housekeeping [1] **60**:4
HUMAN [1] **1**:8
hundred [3] **48**:22,23 **75**:
12
hypothetical [9] **26**:22 **30**:
3,8 **34**:2,21,21 **45**:10 **48**:24
50:7
hypotheticals [2] **35**:2 **49**:
6

I

icing [1] **31**:22
idea [2] **72**:18,20
identify [1] **30**:11
ignoring [1] **7**:11
imagine [3] **10**:1,11 **45**:11
importance [1] **75**:8
important [6] **21**:5 **56**:11,
14 **58**:16 **61**:13 **75**:6
in-patient [1] **54**:2
incentivize [1] **37**:11
include [3] **11**:2 **14**:22 **43**:
13
includes [3] **11**:13 **14**:23,
24
including [5] **5**:6 **11**:6 **42**:7
49:11 **63**:15
income [78] **4**:5,6,8,9 **5**:12,
25 **6**:9,15,18,22 **7**:6,8,11,
24 **8**:9 **10**:8 **11**:16,24 **23**:5,
15 **24**:8 **25**:4 **26**:16,24 **27**:
24 **29**:18 **30**:9,13 **31**:8,19
34:25 **35**:3,9 **39**:2,13,21
41:13,14 **42**:4,8 **43**:16,20,
21 **44**:7,25 **45**:1 **46**:16 **47**:
4,20,25 **48**:11 **50**:2,8,9,11,
22 **54**:23 **55**:23 **56**:17 **57**:7
58:3,8,12 **62**:10 **65**:18,23
67:24,24 **68**:2,7,13 **69**:24
70:3,5,16,16 **71**:22 **81**:4
income's [2] **30**:9 **56**:16
inconsistency [1] **33**:12
inconsistent [1] **43**:23
indeed [1] **27**:21
indirect [1] **48**:20
indisputably [1] **7**:24
individual [6] **39**:23 **46**:14
68:9 **70**:2,14 **79**:2
individual's [2] **45**:6 **69**:20
individuals [25] **6**:15 **7**:18,
21,23 **10**:18 **11**:2,5,11,17,
20,24 **13**:23 **24**:23 **26**:15
30:5,11 **34**:23 **35**:3 **79**:9,
25 **80**:6 **81**:4,7,16,21
ineligibility [5] **50**:19 **56**:
10,23 **57**:11 **61**:14
ineligible [3] **60**:7 **61**:17

73:10
information [2] **77:**16 **80:**
19
inherently [1] **70:**19
inherits [1] **45:**18
initial [2] **66:**20 **67:**10
Instead [3] **6:**8 **17:**24 **35:**2
insurance [40] **4:**5 **17:**22
22:19 **23:**1,4,5,6,12 **31:**7,
19 **34:**7,7,19 **36:**7 **53:**9,12
58:21 **59:**4,6,7,9 **70:**22,24
71:2,6,8,10,11,13,15 **72:**18,
25 **73:**1 **78:**13,14,15,21,22,
24 **79:**1
insure [1] **71:**20
insures [1] **71:**24
interpretation [11] **4:**17 **9:**
4,5,17,24 **10:**4 **20:**13 **36:**22
42:16 **63:**16 **81:**6
interpretations [1] **21:**15
interpreting [2] **20:**10 **22:**
16
irrelevant [1] **51:**17
isn't [14] **15:**22 **21:**3,7 **29:**
18 **44:**10,10 **46:**21 **47:**7 **51:**
25 **67:**10 **70:**13 **73:**1 **78:**8,
13
isolated [1] **63:**16
issue [6] **28:**19 **33:**1 **54:**15
76:9 **77:**1 **79:**23
issues [1] **47:**7
itself [2] **33:**6 **40:**12

J

j)(1 [1] **61:**12
j)(1)(b [1] **79:**19
JACKSON [35] **12:**3 **13:**18,
24 **38:**8,9 **39:**14 **40:**13,16
41:4,15 **45:**3 **46:**8,21 **47:**
12 **48:**7 **57:**15 **65:**10,14 **66:**
4,13,17 **67:**3,9 **68:**4,6,19,
23,25 **69:**3,21 **70:**7,9,12 **76:**
19 **77:**1
January [6] **45:**14 **49:**7,8,9
50:8,11
jewelry [1] **45:**18
job [2] **23:**23 **77:**22
join [1] **49:**19
joined [2] **49:**10,13
joins [1] **49:**7
Joint [3] **24:**25 **26:**12 **78:**3
Judge [1] **64:**9
judgment [1] **73:**25
judgment's [1] **75:**16
June [3] **45:**17,23 **46:**5
Justice [176] **1:**23 **3:**3,9 **5:**2,
20 **7:**2 **8:**12,14,21 **9:**8,11
10:6 **12:**3 **13:**18,24 **15:**2
16:17 **17:**14,17 **18:**19,20,
21 **19:**11,13,14,16,21 **20:**
25 **22:**8,11,12,12 **23:**9 **24:**
10,14,14 **25:**13,17,20,23
26:21 **27:**8,13,17,20 **28:**1,6,
8,11 **29:**4,21 **30:**19,21,22,

23 **32:**4 **33:**21,22,22,23,24,
25 **34:**2,13 **35:**10,16,19,23
36:2,5,18 **37:**17,20 **38:**5,6,
6,8,9,10,18 **39:**14 **40:**13,16
41:4,15,16,22 **44:**2,12,14,
17 **45:**3 **46:**8,21 **47:**12 **48:**
7,24 **49:**4,16 **50:**1,4,14,24
51:3,18 **52:**11,21,24 **54:**5,8,
16 **55:**1,12,20 **56:**7,12,25
57:3,6,15,16,20,22 **58:**14
59:3,9,14,17,24 **60:**16,22
61:19,22,25 **62:**14,18 **63:**
11,17 **64:**14 **65:**10,14 **66:**4,
13,17 **67:**3,9 **68:**4,6,19,23,
25 **69:**3,21 **70:**7,9,12,21 **72:**
2,8,17 **73:**21 **74:**4,20 **75:**15,
24 **76:**4,11,13,15,16,17,19
77:1 **78:**16 **82:**2,5

K

KAGAN [26] **15:**2 **16:**17 **17:**
14,17 **18:**19,21 **19:**21 **22:**
12 **24:**14 **29:**4,21 **33:**22 **36:**
2 **38:**10,18 **57:**20 **58:**14 **59:**
3,9,14,17,24 **60:**16,22 **72:**
17 **78:**17
Katsas [1] **64:**9
KAVANAUGH [47] **18:**20
19:11,14 **22:**8,11 **23:**9 **24:**
10 **25:**13,17,20,23 **33:**24,
25 **34:**13 **35:**10,16,19,23
36:5,18 **37:**17,20 **38:**5 **52:**
21,24 **54:**5,8,16 **55:**1,12,20
56:7,12,25 **57:**3,6,22 **70:**21
72:2,8 **73:**21 **74:**5,20 **75:**
15,24 **76:**4,11
Kavanaugh's [1] **57:**17
keep [4] **22:**8 **58:**24 **59:**5
78:11
key [1] **19:**6
kicked [1] **78:**6
kind [5] **9:**1 **17:**22 **45:**13 **67:**
11 **74:**14
kinds [5] **19:**2 **24:**19 **29:**9
58:20 **65:**19
knowing [1] **24:**7

L

lack [1] **26:**7
lag [1] **79:**23
language [8] **9:**4 **13:**1 **14:**8,
10 **15:**21 **28:**22 **29:**3 **63:**24
large [1] **35:**19
larger [2] **13:**23,24
last [4] **36:**19 **46:**16,18 **58:**
12
lasts [2] **3:**23 **13:**9
later [3] **52:**3,13 **58:**4
Laughter [1] **36:**4
layer [1] **54:**11
lead [1] **19:**17
least [9] **14:**9 **21:**4 **22:**13,20,
24 **31:**8 **43:**4 **56:**1,15
left [5] **29:**21 **30:**5 **31:**4,4 **39:**

4
legislative [1] **14:**5
less [5] **4:**14 **7:**14 **30:**11 **46:**
5 **74:**24
level [1] **48:**11
life [1] **45:**12
lifted [1] **52:**18
likely [5] **25:**7 **34:**11,14,15,
15
limit [10] **35:**11,13 **47:**25 **54:**
23 **56:**17,18 **57:**7 **67:**25 **70:**
6,18
limitations [2] **28:**20 **54:**14
limited [2] **18:**9 **74:**3
line [3] **11:**5 **30:**18 **45:**12
list [1] **4:**22
litigation [3] **9:**13 **10:**1,3
little [6] **7:**3 **32:**10 **38:**12 **61:**
23 **72:**5 **76:**4
lived [1] **45:**11
long [5] **24:**9 **25:**11 **39:**11
41:12 **43:**4
longer [3] **5:**25 **25:**18 **81:**17
longstanding [1] **74:**6
look [31] **12:**25 **13:**2 **14:**5
16:3 **20:**9,23 **25:**6 **26:**1 **28:**
24 **30:**1 **32:**13 **33:**17,19 **38:**
17 **46:**15 **50:**21 **51:**13 **58:**7
62:22 **68:**7 **69:**18 **73:**13 **77:**
14 **78:**1,2 **79:**17,18 **80:**4,4,
10,22
looked [1] **3:**15
looking [8] **30:**6,9,10 **39:**19
49:2 **54:**9 **58:**2,18
looks [1] **38:**14
lose [3] **9:**8 **36:**23 **63:**1
lost [1] **9:**12
lot [3] **11:**22 **70:**22,23
lots [3] **19:**2 **29:**6 **53:**9
lottery [1] **35:**1
low [26] **4:**6 **6:**15,18,22 **7:**24
8:9 **10:**8 **11:**15,24 **30:**9,9,
13 **31:**9 **42:**3,8 **43:**20 **44:**7,
25 **45:**1 **47:**4,20 **50:**2 **58:**8,
12 **71:**22 **81:**4
low-income [16] **4:**14,18,
19,21,24 **7:**21 **30:**5 **37:**7
41:25 **43:**24 **44:**4,23 **45:**9
49:1,3 **65:**4

M

made [7] **12:**24 **42:**6 **43:**17
50:5 **67:**4 **78:**9 **80:**14
mail [1] **19:**5
main [1] **29:**7
maintaining [1] **74:**10
majority [1] **72:**14
man [1] **45:**11
manual [1] **80:**10
many [2] **37:**9 **58:**20
margins [1] **37:**24
marker [1] **47:**20
matching [1] **10:**23
matter [8] **1:**15 **12:**4 **24:**18

30:17 **45:**4 **71:**5 **73:**24 **75:**
3
matters [3] **20:**24 **78:**25 **82:**
1
McDOWELL [81] **1:**22 **2:**6
41:18,19,21 **44:**12,16,20
46:7,10 **47:**9,22 **48:**16 **49:**
12,21 **50:**3,12,15 **51:**1,6 **52:**
2,14,23 **53:**19 **54:**7,10,17
55:7,16,25 **56:**9,20 **57:**2,5,
10,18,20,24 **59:**2,8,13,16,
23 **60:**2,21 **61:**10,20,24 **62:**
1,12,16,20 **63:**13 **64:**2,18
65:13,24 **66:**10,16,22 **67:**8,
16 **68:**5,15,22,24 **69:**1,4 **70:**
5,8,10,15 **71:**3 **72:**4,10 **73:**
6 **74:**4 **75:**2,18 **76:**2,6
mean [40] **3:**20 **7:**14 **9:**16
12:8,14 **13:**1,12 **15:**7,8,14,
21 **16:**8,11,12 **17:**6,14 **18:**3,
11 **19:**16,16,19 **20:**2,10 **23:**
9,11 **29:**4,6,20 **34:**3 **35:**24
37:23 **46:**23 **53:**2 **55:**2 **60:**
17 **63:**12 **64:**16 **67:**22 **76:**9
78:21
meaning [3] **3:**12 **20:**21 **78:**
5
means [10] **3:**17 **16:**6,9,10,
13,18 **17:**8 **42:**22 **46:**15 **63:**
12
meant [4] **15:**14 **16:**20 **60:**
11,13
measure [2] **4:**24 **48:**21
measurement [1] **80:**11
measures [3] **6:**18,19 **59:**
20
measuring [1] **78:**4
Medicaid [16] **4:**19 **5:**6,17,
21,24 **6:**6,19,23 **7:**3,6 **14:**
25 **28:**15 **29:**23 **32:**10 **33:**
13 **79:**11
Medicaid-eligible [1] **6:**22
MEDICAL [4] **1:**3 **3:**5 **58:**20
71:17
Medicare [67] **3:**16,17 **5:**21
6:16 **12:**12 **15:**11,14,15 **16:**
22,24 **17:**22 **20:**6,24 **21:**4,8,
19 **22:**15,22,24 **23:**2 **25:**14
26:8 **28:**23 **29:**3,5,10,13
34:6,8,9,17 **35:**23 **36:**6,9,
10 **38:**11,16 **42:**1,11,18,20,
24 **46:**1 **52:**25 **53:**6,8,12,13,
14,20 **54:**12 **55:**4 **56:**5 **58:**
18,24 **64:**5 **67:**17 **71:**6,23
72:3,5,12,14 **73:**16 **75:**9
78:24 **79:**7
Medicare's [1] **22:**18
Medicare-eligible [1] **25:**
8
meet [3] **27:**6 **39:**17 **67:**6
meets [1] **42:**6
MELISSA [5] **1:**20 **2:**3,9 **3:**
7 **76:**22
mentioned [1] **61:**25

met [1] **40:**20
metric [3] **48:**18 **70:**6 **75:**14
micro-analysis [1] **15:**15
might [16] **10:**10 **11:**22 **19:**
3 **26:**4,22 **35:**25 **40:**10 **53:**
4,9,11 **55:**4,5 **58:**10 **74:**21,
24,24
million [5] **26:**25 **27:**15 **30:**
7,15 **77:**23
million-dollar [2] **34:**12,20
millionaire [2] **34:**3,25
minimum [3] **4:**7 **23:**15 **24:**
8
minute [1] **15:**3
misreading [3] **46:**13 **47:**
10 **50:**16
Mm-hmm [1] **54:**16
moment [1] **32:**5
money [9] **23:**22,24 **37:**8
40:18 **45:**20 **49:**18 **65:**1 **77:**
20,21
monitoring [1] **40:**4
month [83] **5:**25 **7:**12,25 **11:**
8,9,13,17 **13:**15 **18:**13,15
23:22 **24:**7 **27:**1 **30:**15 **31:**
10,15 **35:**4,5,11 **39:**1,5,6
40:3,4,25 **41:**8 **42:**7,9,14
43:3,9,11 **44:**23 **45:**1,7,25
46:3 **47:**17,19 **49:**15,19,24
50:19,20,21,22 **51:**16 **52:**4,
6 **53:**5,11 **56:**15,16,17,19
57:4,9 **58:**3,8 **61:**5,18 **62:**7,
8 **63:**1,2 **66:**1,8,24 **67:**22,
24 **70:**19,19 **72:**21,23 **77:**
15,20,22 **79:**9 **80:**1,13,14
81:5,8
month-to-month [11] **17:**
25 **26:**3 **54:**18,24 **55:**18 **63:**
9 **66:**25 **67:**4 **70:**6,20 **77:**
15
monthly [22] **4:**1 **10:**7 **18:**
10 **19:**4 **23:**6 **41:**14 **42:**5
43:7 **44:**8 **48:**2 **58:**1 **59:**15
61:2 **65:**22 **66:**6 **67:**13 **68:**
5 **69:**8,11 **70:**18 **77:**6 **79:**3
months [28] **4:**8 **10:**24 **24:**2
26:25 **27:**9,20,23 **29:**17 **34:**
24 **35:**8 **39:**12 **52:**15 **53:**24
55:23 **56:**9 **58:**9 **59:**22 **60:**
8,24,25 **61:**3,14,14 **62:**10
63:12 **77:**17 **80:**12
months' [1] **60:**18
morning [2] **3:**4 **15:**5
most [10] **6:**10,12 **13:**3 **14:**
15,16 **17:**17 **25:**11 **35:**11
65:1 **67:**12
Ms [64] **3:**6,9 **5:**5 **6:**2 **7:**13 **8:**
14,20,24 **9:**10,15 **10:**15 **12:**
17 **13:**22 **14:**4 **15:**3,24 **17:**
3,16 **18:**7 **19:**6,12 **20:**8 **21:**
9 **22:**10 **23:**3,13 **24:**16 **25:**
15,18,21,24 **26:**21 **27:**5,10,
15,19,25 **28:**3,7,10,13 **29:**
20,22 **31:**16 **32:**8 **34:**10,16

35:15,18,21 **36**:12 **37**:2,19,
22 **39**:9 **40**:7,15,22 **41**:10
72:18 **73**:22 **76**:21,24 **82**:4
much [5] **32**:15 **38**:13,14
43:21 **46**:2
multiple [1] **55**:3

N

name [1] **56**:3
national [1] **4**:4
natural [1] **71**:12
nature [5] **15**:4 **18**:23 **19**:25
20:4 **74**:2
nearly [1] **26**:19
necessarily [1] **74**:9
need [10] **6**:7 **16**:4 **21**:13 **27**:
7 **31**:19 **32**:2 **34**:8 **37**:8 **56**:
20 **81**:22
needed [3] **4**:9 **33**:10 **37**:12
needs [1] **6**:7
net [2] **36**:25 **78**:18
nets [1] **37**:1
never [2] **34**:8 **71**:7
new [2] **73**:7 **77**:22
next [11] **18**:15 **39**:1,6 **56**:
15,17,19 **57**:4,8 **70**:1 **72**:22
77:22
non-cash [10] **5**:6,12 **31**:17,
20,24 **32**:3 **33**:1 **43**:14,15
79:6
nonetheless [2] **36**:8,8
nonsensical [1] **13**:13
nor [2] **17**:23 **43**:17
notable [1] **13**:3
Notably [1] **80**:17
Nothing [2] **4**:10 **29**:21
notwithstanding [1] **18**:5
November [1] **1**:13
nuanced [1] **14**:22
number [5] **26**:14,17 **75**:20,
22 **80**:25
numbers [1] **78**:8
numerator [2] **52**:8,9
nursing [5] **4**:20 **7**:5,6 **11**:6
81:7

O

objections [1] **18**:2
obviously [1] **23**:5
occur [1] **77**:8
occurs [1] **67**:14
oddity [1] **16**:7
off-the-rack [1] **48**:17
often [1] **24**:24
okay [13] **18**:18 **20**:25 **36**:
18 **38**:5 **45**:21 **47**:12 **49**:5
57:24 **59**:18 **70**:8 **76**:11,18
77:13
once [9] **19**:2 **21**:21 **23**:16,
16 **25**:25 **41**:2 **52**:9,17 **53**:
24
one [45] **6**:12,18,19 **7**:22,22
8:1 **10**:25 **13**:3 **14**:19,22
15:8,9 **16**:9 **19**:3 **20**:9 **22**:

18 **24**:11 **28**:5,7 **29**:7 **30**:
15 **31**:9 **33**:17,19 **36**:22 **40**:
2 **42**:17 **48**:12,13 **54**:17 **55**:
5 **58**:21 **59**:5,15 **60**:5 **62**:1,
19 **63**:16,19 **65**:19 **66**:8 **75**:
5 **77**:6,7 **81**:15
ones [2] **29**:8 **80**:19
only [30] **4**:1 **6**:9 **7**:12 **9**:21
10:18,22 **17**:4 **29**:15 **31**:4
32:1 **35**:4 **38**:2 **42**:13 **43**:
13 **44**:6,24 **49**:18 **54**:17 **55**:
5 **59**:12,14 **62**:12,16,23 **63**:
13 **64**:5 **67**:5,7 **69**:14 **77**:
15
opening [1] **69**:9
operates [1] **38**:14
operation [1] **80**:10
opinion [2] **63**:25 **64**:3
opposed [1] **58**:5
oral [5] **1**:16 **2**:2,5 **3**:7 **41**:
19
order [1] **37**:9
original [1] **40**:20
other [22] **4**:11 **5**:2,3 **6**:19 **7**:
22,23 **9**:12 **11**:19 **12**:8 **17**:
16 **18**:17 **29**:9,13 **31**:14 **35**:
1 **38**:2 **39**:25 **51**:20 **53**:6
58:20 **70**:25 **74**:17
others [2] **19**:4 **37**:10
otherwise [2] **13**:13 **62**:8
out [30] **4**:20 **6**:3 **8**:6,10,17
9:18 **11**:11 **13**:4 **22**:3,21
23:1 **24**:11,12,23 **25**:10,13,
15 **30**:5 **41**:1 **44**:8 **53**:1 **56**:
13,15 **60**:24 **63**:16 **65**:8 **66**:
7 **75**:20 **76**:1 **78**:7
outcome [1] **65**:20
outlined [1] **68**:14
outpatient [2] **29**:12 **58**:23
outset [2] **62**:24 **65**:25
over [11] **25**:8 **26**:10,25 **35**:
3,11,11 **36**:22 **46**:16 **53**:22
72:16,20
over-65 [1] **26**:17
overcome [1] **17**:10
overnight [2] **4**:16 **30**:16
owed [1] **43**:2
owes [1] **45**:20
own [5] **23**:25 **24**:3,4 **54**:25
80:18

P

PAGE [7] **2**:2 **25**:1,9 **26**:12
69:9 **75**:21 **77**:7
pages [2] **9**:22 **13**:5
paid [3] **29**:1 **53**:11 **80**:1
pales [1] **30**:3
panoply [1] **17**:23
paper [1] **73**:14
parents [1] **23**:19
parole [1] **81**:11
Part [31] **3**:16,18 **16**:9 **19**:7
20:24 **21**:20 **22**:2 **23**:16 **26**:
9 **28**:23 **29**:3 **30**:25 **31**:1,

12 **32**:7 **40**:8 **42**:20,24 **46**:
22,23 **53**:21 **54**:12 **56**:4,6
67:17 **71**:6,23 **72**:12 **73**:16
75:4 **79**:7
Partially [1] **15**:24
particular [22] **9**:14 **11**:8
12:19,20 **14**:19 **26**:5 **38**:1
42:7 **43**:9 **45**:7 **46**:2 **47**:17,
19 **53**:5,10 **59**:22 **63**:2,7
71:10,16 **72**:21 **79**:18
pathways [1] **74**:17
patient [7] **4**:19,21 **7**:11,12
42:3 **46**:2 **81**:8
patient's [1] **42**:2
patients [5] **4**:14 **11**:7 **41**:
25 **43**:20 **65**:4
pay [5] **24**:3 **55**:4,5 **69**:7 **71**:
16
payable [1] **7**:18
payee [1] **81**:22
paying [3] **6**:6 **26**:7 **53**:14
payment [59] **4**:2,10 **6**:7,8
10:7,22 **11**:9 **12**:6,19 **14**:2
16:9,10,13 **17**:9 **18**:10 **23**:
6 **24**:6 **26**:1,4,8,18 **28**:14,
21 **29**:1,16 **31**:8 **38**:19,23
40:5 **42**:14 **43**:3,5,9 **44**:8
45:7,24 **46**:9 **47**:16,19 **48**:
12 **49**:8,23 **50**:10 **51**:10,15
54:9,13,19 **55**:13 **59**:22 **63**:
10 **67**:4,5 **69**:11 **71**:14,18
75:5,10 **79**:8
payment-eligible [2] **11**:8
80:13
payments [20] **21**:6 **26**:3
34:24 **42**:5 **43**:8,14,17 **45**:
15 **48**:10 **53**:3,4,14 **55**:19
59:15 **60**:4 **64**:7,19,21 **65**:
6,8
payor [1] **26**:7
pending [1] **58**:10
people [35] **6**:10,21 **7**:4 **8**:
17 **13**:21 **18**:11 **22**:21 **25**:2,
10,13,15 **26**:4,17 **35**:10 **44**:
6,7,23 **45**:9 **47**:4 **48**:10 **49**:
1,11,14 **50**:2,5 **52**:1,8 **53**:9
60:13,23 **61**:6,8 **67**:6 **79**:3
81:25
per [2] **77**:10,18
percent [10] **25**:5 **48**:22,23
74:23 **75**:4,10,12,12,13 **79**:
10
percentage [3] **35**:19,22
74:19
percentage-wise [1] **35**:
17
perfect [2] **48**:21,23
period [4] **55**:14,15,22 **73**:3
periodic [1] **66**:24
person [24] **3**:21 **4**:6 **7**:16
14:2 **26**:23 **29**:17,23 **30**:8,
13 **32**:20 **40**:16,20,23 **42**:6,
12 **43**:1,8 **46**:4,17,24,24 **50**:
23 **61**:15 **77**:24

person's [1] **46**:16
perspective [2] **60**:20 **76**:5
Pet [1] **64**:8
petition [1] **75**:21
Petitioner [2] **44**:2,11
Petitioners [10] **1**:5,21 **2**:4,
10 **3**:8 **43**:1,12,19 **69**:9 **76**:
23
Petitioners' [3] **46**:12 **61**:
15 **74**:1
phone [2] **40**:10 **41**:5
phrase [1] **19**:18
phrased [1] **48**:1
phrases [2] **42**:19,23
picked [2] **48**:16,20
picking [3] **41**:5 **62**:15,18
picks [2] **7**:7 **45**:19
picture [1] **22**:20
piggyback [1] **38**:3
place [3] **4**:7 **30**:14 **33**:19
placed [1] **7**:5
places [2] **8**:1 **63**:19
plausible [1] **36**:21
please [4] **3**:10 **41**:6,22 **66**:
7
plural [1] **14**:18
point [24] **13**:4 **21**:11 **24**:4
26:11 **35**:13 **37**:3,10 **38**:15
44:5 **48**:25 **55**:10 **57**:19,24
61:13 **64**:25 **67**:25 **68**:16
74:13 **77**:7 **78**:12 **79**:5,14,
22 **80**:16
pointed [3] **8**:6 **65**:14 **78**:2
pointing [1] **65**:16
points [2] **69**:17 **71**:4
policy [1] **71**:16
poor [1] **46**:18
pop [2] **35**:3,11
population [7] **4**:18,24 **25**:
6 **37**:7,13 **44**:4 **79**:11
portion [1] **64**:3
position [7] **32**:1 **44**:13 **64**:
9,10 **74**:6,7 **80**:21
positions [1] **33**:12
possible [2] **9**:12 **65**:2
post-hospital [1] **54**:3
posting [1] **47**:24
potential [1] **74**:15
poverty [1] **45**:11
powerful [1] **31**:5
practical [1] **44**:18
practice [4] **56**:1 **60**:12 **77**:
13,14
precise [4] **44**:22 **49**:1,5 **55**:
14
precisely [1] **52**:16
predictive [2] **73**:24 **75**:16
preexisting [1] **48**:18
premise [1] **46**:12
present [1] **28**:24
presented [1] **64**:4
press [1] **55**:2
presumption [1] **17**:10
pretty [3] **12**:7 **25**:25 **60**:19

prevails [2] **9**:17,24
prevents [1] **65**:8
previously [1] **75**:11
pricing [1] **74**:14
primary [2] **25**:21 **26**:6
prior [5] **26**:12 **43**:5 **52**:6 **80**:
12,14
prison [3] **11**:20,25 **81**:10
private [4] **34**:7 **36**:7 **53**:9,
12
probably [6] **5**:12 **17**:9 **27**:
6,10 **34**:25 **76**:12
probation [1] **81**:11
problem [2] **7**:15 **20**:13
problems [1] **6**:13
procedure [1] **68**:20
Procedures [1] **60**:3
process [4] **10**:23 **11**:15
18:13,16
program [88] **3**:18,21,22 **4**:
1,4,4,5 **9**:7 **12**:4,12,21,22
13:12,25 **14**:12,13 **15**:14,
17 **16**:5,19 **17**:22,23 **18**:12,
17 **19**:1 **20**:17 **21**:17,24 **22**:
19 **23**:16 **24**:5,9,22,23 **25**:
11 **28**:4 **31**:3,7,12,18,19 **32**:
20 **33**:16 **34**:9 **35**:7,12 **38**:
17,21,25 **39**:17 **40**:17 **41**:2,
3,12 **44**:6 **47**:3,14 **48**:14
49:10,19 **53**:3,8,16,25 **54**:
20 **55**:11,22 **56**:5 **58**:18,21
59:21 **61**:16 **64**:23 **65**:21
66:20 **67**:13,18,23 **71**:10
73:18 **74**:3,14,18 **75**:5 **76**:
25 **77**:10 **78**:7,15
program's [1] **80**:9
program-eligible [1] **5**:15
programs [5] **12**:9 **38**:3 **55**:
10,13 **67**:12
prolong [1] **56**:14
promised [1] **4**:7
proper [1] **37**:14
protects [1] **71**:24
provide [7] **37**:11,11 **52**:3,
10 **64**:20 **65**:1,6
provided [3] **32**:11 **33**:8 **43**:
17
provision [12] **13**:7 **22**:16
41:23 **44**:21 **47**:16 **60**:9,19
63:8 **64**:5 **65**:1,9 **70**:1
provisions [7] **13**:2 **29**:2
32:6 **60**:5 **62**:1 **68**:13 **77**:6
proxy [7] **4**:23,24 **42**:2 **43**:
24 **48**:17,18,20
purpose [5] **14**:16 **19**:10
44:3,21 **48**:9
purposes [16] **6**:15 **7**:19 **8**:
3,3,10 **13**:19 **15**:16 **22**:15
24:13 **30**:1 **39**:23 **51**:8 **52**:
7 **78**:25 **81**:1 **82**:1
pursuant [2] **45**:16 **65**:23
pursue [1] **61**:22
pushing [1] **17**:5
put [4] **17**:14 **18**:22 **20**:22

75:20
putting [2] **33**:1 **65**:8

Q

qual [1] **27**:6
qualifications [1] **20**:17
qualified [1] **53**:8
qualifies [2] **3**:21 **16**:5
qualify [12] **4**:6 **12**:14 **18**:9
19:3 **30**:14 **32**:18 **33**:2 **74**:
21,22,23,25 **75**:3
qualifying [2] **3**:17,20
question [16] **8**:7 **16**:18 **18**:
23 **22**:12 **36**:19 **47**:17 **51**:
16 **54**:6 **57**:1,17 **58**:11 **59**:
17 **64**:4 **70**:21 **78**:13 **81**:9
question's [1] **57**:3
questions [8] **5**:1 **22**:23 **24**:
14 **34**:1 **44**:1 **51**:20 **58**:16
63:18
quick [1] **63**:17
quite [4] **25**:12 **29**:5 **34**:19
73:19
quo [3] **74**:9,11 **75**:7

R

raised [1] **64**:16
ran [1] **17**:7
range [1] **45**:12
rarely [1] **17**:12
rate [4] **48**:2 **68**:18 **69**:5 **75**:
13
re-authorize [1] **62**:24
reach [1] **59**:4
reached [4] **29**:8,11 **58**:19,
25
read [6] **17**:2,10 **19**:18 **20**:
15,16 **62**:21
readily [2] **22**:22 **24**:13
reading [6] **44**:19,19 **61**:21
64:11 **77**:2 **80**:3
reads [3] **33**:5 **63**:9 **64**:5
real [5] **7**:14 **33**:11 **34**:4 **36**:
20 **40**:23
real-world [1] **30**:4
realistic [2] **37**:18,23
realistically [1] **36**:24
reality [2] **25**:11 **34**:23
really [12] **6**:16 **8**:25 **24**:5
29:16 **34**:8 **38**:15 **58**:16 **71**:
1 **73**:1,1 **77**:12 **78**:13
reapplication [1] **72**:24
reapply [3] **57**:16 **60**:18 **73**:
3
reapplying [1] **61**:4
reason [8] **8**:5,8 **28**:7 **34**:22
35:6 **37**:4 **55**:5 **72**:13
reasoning [1] **6**:5
reasons [4] **8**:17 **10**:10 **52**:
19 **55**:4
reassess [4] **65**:25 **66**:8,18,
23
reassessed [1] **77**:5
reassessments [1] **66**:24

reauthorization [1] **13**:14
reauthorize [2] **62**:25 **63**:2
REBUTTAL [3] **2**:8 **76**:21,
22
receipt [8] **10**:20 **51**:11,13,
25 **63**:20 **64**:1,13 **81**:14
receive [6] **5**:24 **49**:8 **51**:17
53:4 **56**:18 **57**:8
received [2] **43**:4 **53**:23
receives [2] **29**:17 **51**:10
receiving [4] **45**:15 **53**:2
55:13 **61**:8
recipient's [2] **62**:4,9
recognized [2] **26**:4 **42**:11
records [5] **13**:6,8 **41**:12
62:3,9
redetermination [1] **77**:8
reduced [1] **75**:8
reevaluations [1] **66**:12
reference [1] **62**:17
referenced [1] **69**:15
references [2] **59**:18,25
referencing [1] **47**:14
referred [3] **5**:17 **33**:18 **71**:
5
referring [2] **46**:22 **47**:7
refers [3] **61**:13 **68**:1,17
reflected [1] **52**:9
regulation [2] **5**:21 **51**:12
regulations [7] **7**:17 **13**:15
22:2,3 **45**:17 **78**:10 **80**:5
regulatory [1] **40**:11
rehab [3] **28**:16 **29**:24 **31**:2
rehabilitation [5] **5**:8 **15**:1
30:24 **32**:9 **79**:13
reimbursed [1] **4**:13
reimbursement [4] **8**:11
32:21,22 **37**:14
reinstate [1] **52**:5
reinstatement [2] **40**:11
52:7
reinstatements [1] **52**:17
rejected [1] **76**:7
relationship [1] **14**:3
relevant [9] **22**:14 **51**:16
54:6 **55**:14 **64**:3 **70**:13,15,
17 **78**:16
relevantly [1] **24**:15
relied [2] **28**:23 **72**:6
relies [1] **5**:22
remain [1] **4**:11
remand [1] **9**:13
remedy [1] **63**:24
removing [1] **60**:12
rent [3] **23**:21,23 **24**:3
replies [1] **5**:22
report [4] **14**:6,7 **56**:23 **57**:
12
representative [1] **81**:22
request [1] **40**:10
requirement [3] **40**:11 **42**:
8 **44**:9
requirements [4] **42**:7,13
51:15 **77**:5

requires [1] **69**:11
resist [1] **17**:19
resource [1] **27**:6
resources [8] **39**:22 **68**:3,8,
13 **69**:17,25 **70**:4 **74**:3
respect [6] **10**:3 **12**:25 **29**:6
67:17 **78**:16 **79**:7
respects [2] **21**:5 **22**:15
Respondent [4] **1**:9,24 **2**:7
41:20
response [2] **5**:10 **70**:25
rest [1] **65**:23
rests [2] **32**:1 **46**:11
result [4] **45**:13 **48**:10 **63**:6,
13
retain [1] **19**:4
retroactive [2] **52**:6,17
retroactively [2] **52**:5,11
revealed [1] **81**:9
rich [1] **76**:4
risks [1] **71**:21
ROBERTS [8] **3**:3 **30**:19
33:22 **38**:6 **41**:16 **76**:13 **82**:
2,5
roughly [1] **25**:9
routinely [1] **43**:20
rule [11] **10**:20,21 **31**:21,25
51:9,10,11 **52**:1,19 **63**:20
64:13
run [3] **31**:3 **72**:20 **81**:17
rural [3] **36**:24 **37**:21 **64**:17

S

safety [3] **36**:25 **37**:1 **78**:18
sake [1] **30**:9
same [25] **3**:11,11,12,19,20
12:23 **14**:8 **15**:7,21 **16**:13
20:3,21,21 **21**:22 **22**:2 **33**:
14 **42**:23 **48**:11 **55**:9,11 **56**:
5 **58**:3 **61**:18 **67**:10 **78**:18
satisfies [2] **42**:13 **51**:14
satisfying [1] **10**:11
saying [14] **12**:11 **15**:6 **16**:8
19:23 **41**:6 **47**:10 **51**:2 **58**:
17 **59**:11 **70**:12,17 **73**:23
74:1 **77**:12
says [18] **3**:25 **13**:7 **29**:1 **39**:
22 **46**:24 **47**:16 **49**:23 **50**:
20 **58**:12 **60**:5 **62**:3 **63**:4
64:4 **68**:8 **69**:19,23 **70**:1
77:19
scale [1] **30**:6
scheme [1] **12**:9
scope [1] **60**:14
seamlessly [1] **58**:5
season [1] **36**:16
second [10] **11**:6 **16**:14 **17**:
21 **31**:11 **38**:17 **49**:24 **50**:7
54:11 **71**:19 **78**:12
Secondly [1] **32**:16
SECRETARY [1] **1**:7
Section [7] **48**:6 **50**:17,17
60:3,15 **61**:12 **67**:25
secure [1] **62**:2

Security [3] **6**:11 **32**:14 **43**:
16
see [7] **19**:22 **33**:18 **46**:17
51:4,4,6 **68**:25
seeing [1] **7**:12
seem [3] **12**:4 **65**:16 **80**:6
seemed [1] **63**:20
seems [10] **10**:6 **19**:24 **29**:4
48:9 **55**:1,2 **66**:17 **68**:10
80:7,11
sells [1] **45**:19
semantics [1] **81**:16
Senate [2] **14**:6,8
send [4] **23**:21 **39**:3 **40**:5
41:6
sense [13] **6**:3 **11**:22,23 **14**:
1 **19**:1 **44**:18 **47**:3,5 **53**:7
56:5 **61**:5,6,8
sensible [1] **60**:19
sent [2] **10**:21,23
sentence [4] **3**:11,20 **15**:9,
22
separate [2] **22**:3 **71**:14
separately [1] **31**:3
serious [1] **47**:6
serve [1] **36**:25
served [1] **44**:4
service [3] **12**:20 **37**:12 **71**:
17
SERVICES [3] **1**:8 **26**:5 **37**:
12
serving [2] **41**:24 **65**:3
set [7] **38**:16 **48**:2,14 **52**:15
68:7,11 **70**:2
Setting [1] **39**:25
Shall [3] **39**:23 **46**:25 **68**:8
share [3] **37**:8 **41**:25 **65**:3
she'll [1] **72**:19
she's [2] **50**:10 **51**:4
SHERRY [68] **1**:20 **2**:3,9 **3**:
6,7,9 **5**:5 **6**:2 **7**:13 **8**:14,20,
24 **9**:10,15 **10**:15 **12**:17 **13**:
22 **14**:4 **15**:3,24 **17**:3,16
18:7 **19**:6,12 **20**:8 **21**:9 **22**:
10 **23**:3,13 **24**:16 **25**:15,18,
21,24 **26**:21 **27**:5,10,15,19,
25 **28**:3,7,10,13 **29**:20,22
31:16 **32**:8 **34**:10,16 **35**:15,
18,21 **36**:12 **37**:2,19,22 **39**:
9 **40**:7,15,22 **41**:10 **73**:22
76:21,22,24 **82**:4
Sherry's [1] **72**:18
shift [1] **45**:19
short [1] **23**:25
shouldn't [3] **8**:9 **16**:3 **33**:2
show [2] **21**:17 **67**:23
shows [2] **48**:24 **77**:8
sick [1] **49**:20
side [6] **20**:22 **21**:16 **33**:1
51:20 **53**:7 **70**:25
significant [4] **6**:13,16 **35**:
21 **37**:25
similar [6] **12**:10 **22**:14,24
53:7 **78**:23 **79**:7

similarities [1] **52**:22
similarly [1] **16**:23
simply [5] **4**:17 **17**:24 **43**:
10 **60**:11 **81**:6
since [3] **42**:11 **48**:19 **74**:7
single [5] **13**:14 **43**:4 **62**:25
66:24 **67**:23
situation [2] **7**:3 **50**:18
slightly [1] **35**:3
small [1] **35**:4
snafu [1] **51**:21
Social [3] **6**:10 **32**:14 **53**:2
solely [1] **67**:2
Solicitor [1] **1**:22
somehow [2] **10**:14 **24**:13
someone [11] **9**:7 **16**:4 **34**:
6 **44**:25 **48**:11 **50**:18 **51**:14
66:1 **77**:19 **79**:8 **81**:24
someone's [3] **5**:24 **49**:6
56:3
sometime [1] **43**:5
somewhat [1] **34**:11
sorry [7] **13**:5 **22**:9 **47**:15
56:14 **57**:21 **68**:25 **69**:21
sort [7] **12**:8,10,15 **14**:2 **15**:
14 **59**:20 **73**:1
SOTOMAYOR [13] **5**:20 **7**:
2 **8**:12 **30**:23 **32**:4 **33**:21
49:4,16 **50**:1,4,14,24 **51**:3
sounds [1] **31**:11
specific [2] **8**:7,16
specifically [2] **72**:11 **79**:
18
spend [1] **32**:5
spending [1] **27**:15
spent [1] **77**:20
SSA [9] **42**:6 **43**:17 **57**:13
62:2,8,21 **63**:7 **66**:10 **69**:6
SSA's [2] **60**:5,11
SSI [78] **3**:19,21,22,25 **4**:1 **6**:
1,3,4,18 **7**:10,18 **8**:3,8 **11**:
22 **13**:3 **14**:9,12 **15**:12,17
16:3,23 **17**:1,7,12,21 **18**:9,
24 **19**:1,4 **20**:6,17,22 **21**:4,
6,14,23 **22**:14,19,21,24 **24**:
5,13,15 **26**:11,24 **28**:24,25
32:20 **33**:16 **34**:3 **42**:2,5,
12,20,25 **43**:2,7,10,12,22,
24 **44**:6 **45**:15 **46**:25 **47**:23,
25 **48**:17 **49**:7 **53**:2 **54**:23
55:5,18 **64**:6 **71**:8,9,20,22
79:11
SSI-eligible [1] **77**:24
stability [2] **26**:8 **35**:9
stable [1] **25**:12
starkest [2] **17**:18 **18**:22
start [4] **15**:4 **16**:1,2 **32**:8
starting [2] **76**:25 **77**:22
starts [1] **45**:15
state [3] **14**:19 **32**:21 **33**:7
statement [1] **50**:5
STATES [4] **1**:1,17 **33**:4,9
statistics [3] **24**:24 **26**:11
78:10

status [7] **43**:25 **49**:3 **56**:24 **66**:9 **74**:9,10 **75**:7
statute [46] **6**:3 **8**:3 **13**:4 **15**:15 **16**:1,3 **17**:2,7,12 **18**:6 **20**:23 **21**:25 **28**:25 **38**:11 **39**:19,22 **40**:12 **45**:16 **46**:11,19,22,24 **47**:1,23 **49**:13 **53**:20 **59**:25 **60**:10 **61**:21 **62**:17 **63**:8 **65**:5,12,23 **66**:10 **68**:11 **69**:14 **70**:18,20 **77**:2,10,18,25 **78**:9 **79**:18 **80**:4
statutes [1] **55**:18
statutory [8] **10**:12 **13**:5 **22**:16 **28**:22 **44**:15 **51**:14 **65**:7 **69**:2
stay [8] **25**:11 **29**:12 **35**:12 **37**:9 **42**:15 **43**:4,6 **53**:11
step [3] **15**:2 **30**:1 **53**:25
still [15] **9**:12 **10**:13 **11**:7 **16**:7 **19**:8,10 **28**:17 **31**:10 **36**:9 **50**:24 **53**:15 **66**:25 **67**:23 **71**:15 **81**:19
straight [1] **60**:7
strange [1] **77**:18
strangers [1] **23**:7
stream [1] **59**:12
street [5] **18**:12 **23**:7 **40**:17, 24 **79**:3
string [3] **24**:2 **35**:8 **39**:12
structure [3] **15**:16 **53**:20 **55**:17
struggling [1] **45**:5
stuff [1] **58**:24
subchapter [1] **39**:24
subject [2] **29**:2 **73**:8
submit [2] **73**:7,13
submitted [2] **82**:6,8
subpart [1] **22**:2
subsection [9] **33**:20,20 **46**:13 **48**:3 **54**:21,22,25 **69**:11 **77**:3
subsections [1] **79**:19
subsequent [2] **52**:4 **58**:9
subsidy [1] **17**:25
substantive [1] **58**:6
successfully [1] **71**:21
suggest [2] **26**:20 **62**:6
suggesting [3] **17**:20 **55**:3, 6
suggestions [1] **24**:12
suggests [1] **37**:21
superficial [1] **19**:25
supplemental [1] **43**:15
supplementation [2] **14**:20 **33**:7
suppose [3] **17**:18 **27**:2 **62**:8
supposed [1] **56**:23
SUPREME [2] **1**:1,16
suspect [1] **34**:10
suspended [5] **4**:10 **22**:4,5 **26**:15 **81**:17
suspension [1] **81**:13

suspensions [3] **22**:1,3 **52**:18
system [1] **13**:13

T
---

talked [1] **73**:22
talks [4] **14**:17 **28**:25 **69**:16 **77**:3
technical [1] **36**:19
term [3] **17**:8,11 **62**:13
terminate [2] **56**:3,8
terminated [7] **3**:24 **4**:10 **21**:24 **25**:3 **28**:4 **35**:7 **55**:21
terminating [1] **13**:17
termination [1] **78**:7
terminations [2] **22**:1,4
terms [11] **3**:14 **7**:16 **13**:1, 19 **16**:7 **26**:2 **29**:11 **48**:1 **68**:17 **77**:2,25
terribly [1] **19**:24
test [2] **51**:13 **81**:14
text [5] **14**:17 **15**:16 **19**:9 **65**:7 **68**:1
textual [5] **12**:3 **13**:1 **48**:8 **61**:13 **71**:5
textually [1] **48**:5
Theirs [1] **48**:22
there's [37] **3**:25 **5**:8 **8**:4,5, 8 **11**:5,19 **12**:17 **18**:12,12, 16,16,17 **20**:8 **22**:5 **24**:19, 22 **26**:7 **28**:5 **29**:21,24 **31**:24,25 **33**:11 **36**:13 **54**:17, 19 **55**:5 **58**:10 **59**:11,14 **70**:11 **73**:16 **78**:22 **79**:15 **81**:15,21
thereafter [1] **72**:1
therefore [1] **53**:10
They'll [2] **73**:10 **81**:18
they've [2] **26**:5 **44**:25
thinking [1] **6**:4
third [1] **31**:11
THOMAS [7] **5**:2 **30**:21 **44**:2,12,14,17 **76**:15
though [12] **16**:18 **28**:11 **31**:23 **34**:9 **36**:9 **43**:21 **44**:7 **49**:16 **53**:13 **58**:25 **59**:21 **64**:24
thousand [1] **18**:2
three [7] **9**:22,25 **10**:19 **11**:1 **18**:14 **74**:21,25
threshold [23] **27**:24 **29**:18 **35**:4 **45**:24,25 **53**:21,25 **54**:19,25 **55**:19 **60**:25 **61**:1 **62**:11 **65**:12,17 **66**:19 **67**:11, 20 **68**:11 **72**:21,23 **73**:4,17
throughout [1] **33**:17
ticket [2] **36**:16 **79**:16
Title [29] **5**:4,9,13,14,16,18 **13**:10 **15**:1 **30**:25 **31**:3 **32**:11,12,13,15,16,19,23,24 **33**:2,3,8,10,17 **42**:21,25 **43**:13,18 **79**:13,20
Today [1] **3**:12

together [3] **24**:2 **35**:8 **39**:12
took [1] **17**:6
total [1] **25**:10
totally [1] **75**:14
touched [1] **32**:10
towards [1] **52**:20
transferred [1] **12**:1
transitioning [2] **50**:18 **57**:11
translate [1] **26**:10
treat [5] **4**:15 **37**:7 **46**:4 **47**:6,7
treating [1] **37**:6
treatment [2] **29**:12 **58**:23
triggered [2] **5**:15 **33**:15
true [4] **17**:3 **21**:7,8 **81**:16
trying [5] **13**:21,22 **30**:10 **47**:3 **55**:7
Tuesday [1] **1**:13
turn [2] **34**:17 **51**:9
turned [2] **34**:18 **70**:23
turns [2] **45**:14 **71**:17
twice [2] **15**:7,9
two [19] **3**:14 **6**:17 **10**:5 **19**:20 **20**:3,8,10 **21**:4 **22**:18,20, 23 **24**:19 **30**:6 **32**:6 **33**:12 **42**:18 **53**:18 **63**:17 **71**:10
twofold [1] **5**:11

U

U.S.C [2] **71**:7,7
Ultimately [1] **43**:19
unambiguously [1] **65**:7
uncompensated [1] **75**:13
under [58] **3**:16 **5**:3,3,9,13, 16,18 **6**:9 **9**:5 **10**:12 **11**:11 **12**:22 **13**:10 **15**:11,12,13 **16**:19,22,23,24 **17**:1 **20**:6,6 **28**:2 **29**:10 **32**:11,17 **33**:2, 3,4,5,5,8,10,18 **35**:5,13 **37**:14 **42**:19,21,24,25 **43**:13, 18 **46**:14,25 **49**:13 **54**:12, 24 **60**:15 **61**:15 **64**:22,23 **65**:9 **72**:8,23 **73**:4 **77**:24
understand [13] **7**:4 **22**:13, 21,25 **44**:14 **45**:6 **46**:4 **58**:14 **64**:19 **65**:11 **67**:3 **70**:7, 9
understanding [3] **35**:25 **36**:2 **46**:11
understood [3] **33**:9 **38**:24 **64**:10
unemployed [1] **77**:21
unemployment [1] **78**:22
UNITED [2] **1**:1,17
unless [1] **22**:5
unlikely [2] **27**:1 **34**:4
until [12] **3**:23 **13**:9,16 **21**:24 **24**:1 **28**:3 **49**:23 **55**:22 **60**:6 **62**:3 **71**:22 **79**:17
unworkable [2] **63**:6,14
up [24] **7**:7 **13**:20 **18**:14,15

19:21 **20**:18 **23**:25 **24**:7 **30**:2 **33**:4 **35**:2 **40**:25 **41**:5 **45**:19 **48**:14,17,20 **66**:6 **68**:7, 11 **70**:2 **78**:9 **80**:18,24
upbringing [1] **45**:14
upheld [1] **42**:17
urban [2] **36**:25 **64**:17
usage [1] **63**:5
uses [1] **42**:18
utility [1] **63**:4

V
---

valid [1] **13**:16
variable [1] **26**:19
various [1] **10**:10
vast [1] **72**:14
versa [1] **57**:12
versus [2] **3**:5 **38**:22
vice [1] **57**:12
view [8] **9**:6,16 **10**:16 **13**:20 **14**:1 **28**:2 **61**:15 **63**:22
vigorously [1] **17**:19
violate [1] **81**:11
vocational [8] **5**:8 **14**:25 **28**:16 **29**:24 **30**:24 **31**:2 **32**:9 **79**:12
vulnerable [1] **37**:13

W
---

waiting [1] **4**:21
waived [2] **8**:23 **9**:14
walking [2] **40**:25 **41**:1
wanting [1] **14**:11
Washington [3] **1**:12,20, 23
way [18] **6**:24 **12**:10 **17**:1 **20**:16,24 **30**:16 **31**:25 **32**:24 **38**:11 **47**:24 **52**:2 **56**:2 **59**:4,7 **62**:22 **75**:17 **78**:19,23
ways [2] **20**:9 **71**:10
weeds [1] **76**:12
week [1] **53**:11
welcome [2] **5**:1 **44**:1
whatever [3] **7**:7,8 **8**:6
whereas [2] **71**:22 **79**:8
Whereupon [1] **82**:7
whether [25] **10**:2 **12**:6,18, 20,21 **14**:1 **16**:4 **42**:3 **47**:18,20 **49**:2,5 **50**:22 **51**:9,14, 16,23 **53**:22 **78**:14,14,25 **79**:1,25 **80**:2,8
who's [4] **4**:6 **26**:23 **40**:17 **45**:11
whole [3] **23**:7 **44**:3 **70**:18
wide [1] **73**:19
will [17] **9**:24 **23**:21 **37**:17 **39**:3,6 **40**:5 **47**:5 **52**:4,7,8, 10 **63**:5 **73**:8 **74**:10,17 **75**:5,19
win [2] **18**:24 **32**:3
window [1] **40**:25
winner [1] **35**:1
wins [1] **18**:25
within [3] **15**:1 **42**:23 **43**:5

without [2] **37**:13 **72**:24
wondering [3] **12**:6 **38**:19 **65**:18
word [4] **20**:21 **23**:10,11 **42**:22
words [3] **3**:11,13,15
work [4] **17**:13 **45**:19 **47**:23 **79**:16
worked [1] **46**:19
working [1] **39**:15
works [8] **12**:16 **22**:7 **47**:11 **52**:3 **56**:1,2 **59**:4,10
world [3] **21**:22 **34**:4 **36**:20

X

XAVIER [1] **1**:7
XI [1] **33**:3
XVI [27] **5**:4,9,13,14,16,18 **13**:10 **15**:1 **30**:25 **31**:3 **32**:12,13,15,16,19,23,24 **33**:2, 8,10,17 **42**:21,25 **43**:13,18 **79**:13,20

Y
---

year [24] **4**:8 **23**:16 **26**:25 **27**:4,18 **28**:2 **31**:7,9 **39**:1, 10 **43**:5 **46**:16,18,25 **52**:16 **53**:4 **58**:13 **59**:21 **60**:6 **64**:21 **69**:6 **73**:3 **77**:4,23
years [2] **60**:9 **77**:9
yield [1] **63**:5
yourself [1] **23**:20

Z
---

zero [1] **53**:14