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Legal Sidebar

High Court Rejects Private Challenges to Medicaid Provider Requirements

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In June 2025, the Supreme Court issued its decision in *Medina v. Planned Parenthood South Atlantic*, holding that private litigants cannot sue under 42 U.S.C. § 1983 (Section 1983) to challenge a state's decision to exclude health care providers that offer certain abortion services from participation in a state's Medicaid program. In *Medina*, the Supreme Court held that Section 1983, a federal statute that allows a person to sue state government actors based on a deprivation of constitutional or federal rights, cannot be used to enforce violations of Medicaid's so-called "any-qualified-provider" provision, as the Medicaid provision does not confer a privately enforceable "right." This Legal Sidebar provides background on the Medicaid program and Section 1983, discusses the Court's decision in *Medina*, and concludes with selected legal considerations for Congress.

Background

Medicaid

The Medicaid program is a joint federal-state program that provides medical assistance for a diverse group of low-income individuals. To participate in Medicaid and receive federal funding, a state must have a plan for medical assistance approved by the Secretary of Health and Human Services (HHS), and, in general, this plan must comply with a wide array of federal standards. Among these standards, states must cover specified groups of individuals and provide particular types of health benefits to these individuals. If a state fails to meet these requirements, the federal government may withhold the state's federal Medicaid funds.

Relevant to the *Medina* litigation, the Medicaid statute generally restricts states' ability to exclude certain providers from program participation. More specifically, under the so-called "any-qualified-provider" requirement (sometimes referred to as the "freedom of choice" provision), state plans must allow Medicaid beneficiaries to obtain medical assistance "from any institution, agency, community pharmacy, or person, qualified to perform the service or services required." As the Supreme Court previously described, this provision gives Medicaid beneficiaries "the right to choose among a range of *qualified* providers, without government interference." While the Medicaid statute imposes various requirements

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on providers participating in state Medicaid programs, the statute does not specifically define the term "qualified."

In recent years, some states have sought to exclude health care providers that perform elective abortions from receiving Medicaid reimbursement for any covered items or services on the basis that these providers are not qualified Medicaid providers. Federal appropriations restrictions generally limit the use of federal Medicaid funds to pay for abortions directly, subject to limited exceptions. However, in an effort to prevent any indirect support of abortion services, these state measures generally have aimed to prohibit all program funding for health care providers that perform abortions that are not covered by Medicaid, even where the providers offer other covered services. In response, Medicaid beneficiaries have challenged these provider restrictions in court.

Section 1983 Actions

Although there are administrative appeals processes for program enrollees and Medicaid-participating providers within the Medicaid program, the Medicaid statute does not expressly allow private parties to sue state officials based on alleged noncompliance with program requirements, and beneficiaries and other private parties desiring to challenge state implementation of Medicaid requirements have sought to use Section 1983 to bring their claims. Enacted as part of the Civil Rights Act of 1871, Section 1983 generally permits individuals to seek damages against state actors who deprive them of "rights ... secured by the Constitution and laws." While the Supreme Court has recognized that noncompliance with a federal statute may be enforceable under Section 1983, not all violations of federal statutes create liability under the Section. The Court has explained that, because Section 1983 "speaks in terms of 'rights, privileges, or immunities" and not violations of federal law, private suits are available only if a state actor violated a "federal right." Additionally, should a court determine that such a federal right exists, this right will be unenforceable if a defendant demonstrates that Congress did not intend for the statute at issue to be enforceable under this section. In particular, the Court has recognized these broad limits on the availability of Section 1983 for statutes enacted based on Congress's spending power, in which the federal government provides federal funds to states or private entities that agree to meet specified conditions. A key reason for such limits, the Court has explained in multiple decisions, is that the "typical remedy" crafted by Congress for violations of spending conditions is the withholding of federal funds, not private lawsuits.

The Supreme Court has addressed the circumstances in which federal spending legislation gives individuals the right to sue under Section 1983 in several instances, and the way in which the Court has examined this issue has evolved over time. To illustrate, in the 1990 case *Wilder v. Virginia Hospital Association*, the Court held that health care providers seeking to challenge Virginia's setting of Medicaid reimbursement rates (as inappropriately low, in violation of the federal Boren Amendment that was repealed in 1997) had a right to sue under Section 1983. As the Court explained, the health care providers had this right to sue because, among other things, they were the "intended beneficiaries" of the federal provision. Further, the Court viewed this provision, which was "cast in mandatory rather than precatory terms," to impose "a binding obligation on States participating in the Medicaid program to adopt reasonable and adequate rates." Seven years later, in *Blessing v. Freestone*, the Court declined to find an enforceable right under Section 1983 related to the provision of child support services under Title IV-D of the Social Security Act. In *Blessing*, the Court articulated a three-prong test for determining the existence of a right: (1) Congress intended the statutory provision to benefit the plaintiff; (2) the asserted right is not so "vague and amorphous" that its enforcement would strain judicial competence; and (3) the provision couched the asserted right in mandatory rather than precatory terms.

Following *Blessing*, the Court decided *Gonzaga University v. Doe*, a case particularly relevant to the *Medina* decision. In *Gonzaga*, the Court concluded that Section 1983 can be invoked to enforce a federal statutory right only when that right has been "unambiguously conferred" by Congress. *Gonzaga* involved

a provision of the Family Educational Rights and Privacy Act of 1974 (FERPA), which generally denies federal funds to educational institutions with policies or procedures that allow student records to be released to unauthorized parties. The Court held that the FERPA provision did not confer an enforceable right under Section 1983. In its decision, the Court clarified the first prong of the *Blessing* test, holding that to support a cause of action under the Section, plaintiffs must demonstrate that Congress clearly intended to create a federal right and that "vaguer 'benefits' or 'interests'" do not trigger the ability to bring a private lawsuit under the statute. Further, the Court explained, the FERPA provisions had no "rights-creating language" and instead focused on the program in the "aggregate" rather than the needs of particular individuals.

Additionally, in a 2023 decision, *Health & Hospital Corp. of Marion County v. Talevski*, the Court examined provisions of the Federal Nursing Home Reform Act (FNHRA), an act that contains several requirements for Medicaid-participating nursing facilities. The act's requirements include those "relating to residents' rights," which encompass "[t]he right to be free from ... any physical or chemical restraints imposed for purposes of discipline or convenience," and certain "[t]ransfer and discharge rights," which provide that a nursing home "must permit each resident to remain in the facility and must not transfer or discharge the resident from the facility" except in specified circumstances. In *Talevski*, the Court reaffirmed that spending-clause statutes may be enforced in "atypical cases" under Section 1983. Relying on *Gonzaga* and other cases, the Court also held that, based on the relevant text of FNHRA, Congress had unambiguously conferred Section 1983-enforceable federal rights. As the Court described, the provisions "'use clear 'rights-creating language,' speak 'in terms of the persons benefited,' and have an 'unmistakable focus on the benefited class'" and were thus presumptively enforceable. The Court further held that nothing in FNHRA overcame this presumption, as the Court found nothing in the act's enforcement scheme that precluded these private lawsuits.

The *Medina* Case

The *Medina* lawsuit stems from a 2018 executive order issued by the Governor of South Carolina instructing the state's Health and Human Services Department to deem "abortion clinics ... enrolled in the Medicaid program" as unqualified to provide Medicaid-covered services and to terminate their Medicaid enrollment agreements. In response, Planned Parenthood South Atlantic, a health care provider offering a range of medical services, including abortion services, and a Medicaid beneficiary sued the State of South Carolina under Section 1983, seeking to block enforcement of the executive order as applied to Planned Parenthood.

The district court sided with the plaintiffs and found that the Medicaid any-qualified-provider requirement creates a private right of action enforceable through Section 1983. The U.S. Court of Appeals for the Fourth Circuit affirmed the decision. South Carolina then appealed to the Supreme Court, which vacated the Fourth Circuit's decision in light of *Talevski* and remanded the case for further consideration. On remand, the Fourth Circuit again found that the plaintiffs could sue under Section 1983. South Carolina again petitioned the Supreme Court for review, and the Court agreed to hear the case. At the time the Supreme Court granted the petition for certiorari in *Medina*, there was a circuit split on whether private individuals may bring Section 1983 actions to enforce Medicaid's any-qualified-provider requirements. Most of the U.S. Courts of Appeals (referenced here only by jurisdiction and "Circuit") that considered the question (including the Fifth, Sixth, Seventh, Ninth, and Tenth Circuits) held that such a private right of action was available under Section 1983, while the Eighth Circuit reached a contrary conclusion.

In a 6-3 decision, the Supreme Court reversed the Fourth Circuit's judgment, holding that the Medicaid any-qualified-provider requirement did not convey individual rights enforceable under Section 1983. In an opinion by Justice Neil Gorsuch, the Court first addressed the appropriate test for determining whether a statutory provision gives private persons the right to sue under Section 1983. The Court clarified that *Gonzaga* establishes the proper method for making this determination (also reflected in post-*Gonzaga*

cases, such as *Talevski*). In doing so, the Court rejected any reliance on pre-*Gonzaga* caselaw (including *Wilder* and *Blessing*) to the extent they suggest that "spending-power legislation can give rise to an enforceable right under § 1983 so long as the legislation is 'intended to benefit the putative plaintiff' and the plaintiff's interest in the statute is not 'too vague and amorphous.'" According to the Court, to confer a right to sue under Section 1983, the relevant law must "clearly and unambiguously use[] rights-creating terms" and "display an unmistakable focus on individuals like the plaintiff" (citations and quotations omitted). The Court further explained that, even if the *Gonzaga* test is met, Section 1983 actions may not be available if Congress provided "a more specific remedy."

In describing the rationale behind the rigorous analysis, particularly for spending legislation, the Court traced the history of Congress's use of its spending power, recounting the rise of federal funding to states during the New Deal. When disputes about grant conditions first arose during that period, the Court observed that it relied on contract and treaty analogies to guide its analysis. Applying those same principles—which are grounded in voluntary and knowing agreement between contracting parties—to the Section 1983 context, the Court reiterated that the availability of a Section 1983 enforcement suit depends on whether the relevant spending-power legislation provides "'unmistakable' notice" that "suffices to alert grantees that they might be subject to private suits ... whenever they fail to comply with a federal funding condition" (internal quotations omitted). While the Court acknowledged that it had "admittedly ... briefly experimented with a different approach" that "took a broad view of its authority to confer new rights"—as reflected in cases like *Wilder* and *Blessing*—the Court advised that lower courts now "should resist the impulse" to rely on those cases and must now find an unambiguously conferred individual right before permitting a Section 1983 claim to proceed.

The Court then addressed the any-qualified-provider requirement and concluded that the provision lacked the necessary, clear language to confer on private individuals an enforceable right under Section 1983. Describing *Talevski* as "supply[ing] the only reliable yardstick against which to measure whether spending-power legislation confers a privately enforceable right," the Court distinguished the Medicaid requirement from the FNHRA provision at issue in that case. In the Court's view, the any-qualified-provider provision "looks nothing" like the FHNRA provisions outlining individual residents' rights, because the any-qualified-provider provision speaks to what s*tates* must do for Medicaid participation. Additionally, the Court pointed to the fact that the any-qualified-provider provision is in the middle of a section of the Medicaid statute that lays out a wide array of requirements that states must meet in order to secure program reimbursement. The Court observed that the FNHRA provisions at issue in *Talevski*, in contrast, were set apart by Congress from other provisions, "help[ing] to alert grantees that accepting federal funds comes with a duty to answer private suits."

In a concurring opinion, Justice Clarence Thomas expressed support for the case's outcome but a desire for the Court to revisit its Section 1983 jurisprudence, including its application to spending clause statutes. Additionally, Justice Ketanji Brown Jackson authored a dissenting opinion joined by Justices Sonia Sotomayor and Elena Kagan. The dissent agreed that "the unambiguous-conferral test" is "the touchstone" for the inquiry but concluded that the any-qualified-provider requirement "easily satisfies" that test. The dissent highlighted, for instance, that the provision that refers to "*an individual eligible for medical assistance*" is phrased in terms of the persons benefited. Additionally, the original session law title "Free Choice by Individuals Eligible for Medical Assistance" reflected language the dissent viewed as "classically associated with establishing rights." The dissent also indicated the provision's use of mandatory terms (i.e., "must") "reinforced [Congress's] rights-creating intent." In the dissent's view, the majority's approach, which looks to FNHRA as "the only reliable yardstick," turns the analysis from whether Congress has "manifested an unambiguous intent to confer individual rights" to whether Congress has "manifest[ed] an unambiguous intent to imitate FHNRA." This approach, the dissent asserted, "distorts the unambiguous-conferral test beyond recognition" and "warps [the Court's] reasoning in *Talevski*," which did not "single out FNHRA as the sole or definitive model for conferring individual rights."

Considerations for Congress

In *Medina*, the Court clarified the applicability of Section 1983 in the context of the Medicaid any-qualified-provider requirement. By holding that Medicaid beneficiaries do not have a private right of action under Section 1983 to enforce this requirement, the decision, as a practical matter, leaves the enforcement of this provision primarily in the hands of the HHS Secretary. Should the Secretary determine that a state is out of "substantial" compliance with this requirement, the agency could take steps to withhold state funding, and states have the ability to appeal such determinations.

Since *Medina*, Congress passed the P.L. 119-21, the FY2025 Reconciliation Law, which contains a provision relevant to the scope of qualified Medicaid providers. In particular, Section 71113 of the law imposes a one-year funding restriction prohibiting Medicaid payments to certain providers and their affiliates that furnish elective abortion services and meet other specified criteria. Planned Parenthood, another provider, and a group of more than 20 states have filed separate suits challenging the constitutionality of this federal funding restriction. As of the date of publication of this Sidebar, a Massachusetts district court has granted Planned Parenthood's motion for a preliminary injunction and enjoined the government from enforcing Section 71113's restrictions against Planned Parenthood and its members.

With respect to the Court's Section 1983 jurisprudence, *Medina* clarified the applicable standard for determining when legislation confers an individually enforceable right under Section 1983 in at least two ways. First, the decision expressly rejects reliance on some of the Court's pre-*Gonzaga* cases that directed courts to consider more broadly a statute's intended beneficiaries in deciding whether Congress intended to confer an individual right. In *Medina*, the Court explained that the focus should be on whether the law in question "clearly and unambiguously uses rights-creating terms" (alterations removed)—a standard the Court emphasized as setting a "demanding bar."

Second, the Court indicated that, in analyzing whether that "demanding bar" is met, the FNHRA provisions at issue in *Talevski* may serve as the "yardstick," particularly in the spending-power context. This characterization potentially signals that, when evaluating whether spending-power legislation provides an individually enforceable right, future courts may focus on the legislation's similarity to the FHNRA provisions—including whether the law in question, like the FHNRA provisions, expressly refers to specific individual "rights" and whether the statutory context in which such "rights" are placed provides notice to funding recipients of potential private suits. This potential focus by courts on the FHNRA provisions may have implications for Congress. Even if Congress intended certain existing spending-power program requirements to be enforceable under Section 1983 by individual program beneficiaries, going forward, courts may be unlikely to interpret spending-power program requirements as conferring such rights unless the provisions are comparable to the FHNRA provisions. To the extent Congress determines it appropriate to clarify the existence of such rights, it may amend the relevant provisions and consider the FHNRA provisions as a model. More broadly, *Medina* suggests that whenever Congress is considering spending-power legislation and intends for private suits to be available as an additional mechanism of enforcement for certain program requirements, it may seek to employ language that is at least as specific as the FNHRA provisions.

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