

**09-1158 DOUGLAS V. CA PHARMACISTS ASSN.**

DECISION BELOW: 596 F.3d 1098

LOWER COURT CASE NUMBER: 09-55532

**QUESTION PRESENTED:**

Under 42 U.S.C. § 1396a(a)(30)(A) of the Medicaid Act, a state that accepts federal Medicaid funds must adopt a state plan containing methods and procedures to "safeguard against unnecessary utilization of ... [Medicaid] services and ... assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available ... at least to the extent that such care and services are available to the general population." The Ninth Circuit, along with virtually all of the circuits to have considered the issue since this Court's decision in *Gonzaga University v. Doe*, 536 U.S. 273 (2002), concluded that this provision does not confer any "rights" on Medicaid providers or recipients that are enforceable under 42 U.S.C. § 1983, and respondents do not contend otherwise. Nonetheless, in the present cases, the Ninth Circuit held that § 1396a(a)(30)(A) preempted several state laws that could have the effect (either directly or indirectly) of reducing Medicaid reimbursement payments to providers, because the California Legislature failed to conduct a specific type of study that the Ninth Circuit said was required.

The questions presented are:

1. Whether Medicaid recipients and providers may maintain a cause of action under the Supremacy Clause to enforce § 1396a(a)(30)(A) by asserting that the provision preempts a state law that may reduce reimbursement rates.
2. Whether a state law that could result in reduced Medicaid reimbursement to providers may be held preempted by § 1396a(a)(30)(A) based on requirements that do not appear in the text of the statute.

LIMITED TO QUESTION 1 PRESENTED BY THE PETITIONS. CONSOLIDATED WITH 09-1158 AND 10-283 FOR ONE HOUR ORAL ARGUMENT.

THE PARTIES AND THE SOLICITOR GENERAL ARE DIRECTED TO FILE SUPPLEMENTAL BRIEFS ADDRESSING THE FOLLOWING QUESTION: "WHAT SHOULD BE THE EFFECT, IF ANY, OF THE DEVELOPMENTS DISCUSSED IN THE LETTER SUBMITTED BY THE SOLICITOR GENERAL ON OCTOBER 28, 2011, ON THE PROPER DISPOSITION OF THIS CASE?"

CERT. GRANTED 1/18/2011