

IN THE SUPREME COURT OF THE UNITED STATES

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No. 20-1263

GIANINNA GALLARDO, AN INCAPACITATED PERSON,  
BY AND THROUGH HER PARENTS AND CO-GUARDIANS  
PILAR VASSALLO AND WALTER GALLARDO,  
PETITIONER

v.

SIMONE MARSTILLER, IN HER OFFICIAL CAPACITY  
AS SECRETARY OF THE FLORIDA AGENCY  
FOR HEALTH CARE ADMINISTRATION

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

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MOTION OF THE UNITED STATES FOR LEAVE TO  
PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE,  
FOR ENLARGEMENT OF TIME FOR ORAL ARGUMENT,  
AND FOR DIVIDED ARGUMENT

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Pursuant to Rule 28 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves that the United States be granted leave to participate in the oral argument in this case, that the time for oral argument be enlarged to 70 minutes, and that the time be allotted as follows: 20 minutes for petitioner, 15 minutes for the United States, and 35

minutes for respondent. Petitioner and respondent both consent to this motion.

This case presents the question whether the Medicaid Act's third-party-liability provisions permit a State to recover reimbursement for medical expenses paid by Medicaid by obtaining a portion of the recipient's tort recovery that represents medical expenses not paid by Medicaid. The United States has filed a brief as amicus curiae supporting petitioner, arguing that the Medicaid Act permits a State to recover only the portion of the recipient's tort recovery that represents expenses paid by Medicaid.

The United States has a substantial interest in this case. The Medicaid Act's third-party-liability provisions provide a source of compensation for Medicaid at both the federal and state levels. Under those provisions, the United States is entitled to a portion of any third-party recovery obtained by the State. See 42 U.S.C. 1396k(b).

In addition, Congress has vested the Secretary of Health and Human Services with broad authority to administer Medicaid. See 42 U.S.C. 1302. The question presented involves the Secretary's interpretation and implementation of the statute.

The United States has previously presented argument as an amicus curiae in two other cases involving the Medicaid Act's third-party-liability provisions: Wos v. E.M.A. ex rel. Johnson, 568 U.S. 627 (2013) (No. 12-98), and Arkansas Department of Health and Human Services v. Ahlborn, 547 U.S. 268 (2006) (No. 04-1506).

The United States' participation in oral argument could materially assist the Court in its consideration of this case.

Respectfully submitted.

ELIZABETH B. PRELOGAR  
Solicitor General  
Counsel of Record

NOVEMBER 2021