

No. 24-1110

In the Supreme Court of the United States

SAINT ANTHONY HOSPITAL,

Petitioner,

v.

ELIZABETH WHITEHORN, DIRECTOR, ILLINOIS
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES,

Respondent,

and

MERIDIAN HEALTH PLAN OF ILLINOIS, INC., *et al.*,

Intervenors-Respondents.

**On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Seventh Circuit**

BRIEF IN OPPOSITION

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QUESTION PRESENTED

Whether the Court should grant, vacate, and remand this case in light of *Medina v. Planned Parenthood South Atlantic*, 145 S. Ct. 2219 (2025), which held—consistent with the opinion below—that *Wilder v. Virginia Hospital Ass’n*, 496 U.S. 498 (1990), is no longer good law.

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BRIEF IN OPPOSITION

The en banc Seventh Circuit held in the opinion below that a provision of the Medicaid Act, 42 U.S.C. § 1396u-2(f), does not confer individual rights enforceable under § 1983. In doing so, that court applied the test set out in *Gonzaga University v. Doe*, 536 U.S. 273 (2002), and reaffirmed in *Health and Hospital Corporation of Marion County v. Talevski*, 599 U.S. 166 (2023), to determine whether a spending-power statute creates an individually enforceable right, and it expressly rejected petitioner’s argument that it should instead rely on the “less demanding framework” from *Wilder v. Virginia Hospital Ass’n*, 496 U.S. 498 (1990), to determine whether such a statute creates such a right. Pet. App. 15a-16a & n.2.

In a petition filed before this Court decided *Medina v. Planned Parenthood South Atlantic*, 145 S. Ct. 2219 (2025), petitioner asked the Court to hold the case for *Medina* and then grant the petition, vacate the Seventh Circuit’s opinion, and remand for further proceedings in light of *Medina*. Pet. 21. Petitioner specifically asked the Court to remand so that the Seventh Circuit, with *Medina*’s guidance, could revisit whether it should “have treated *Wilder* as relevant” precedent in determining whether § 1396u-2(f) creates individual rights. *Id.* at i. But *Medina* holds exactly what the Seventh Circuit anticipated: that lower courts “should not” “consult *Wilder*” and similar cases “when asking whether a spending-power statute creates an enforceable individual right,” and instead should apply only the “established method” set out in *Gonzaga* for answering that question. 145 S. Ct. at 2234. Because the opinion below did exactly that, the Court should deny the petition.

STATEMENT

1. The Medicaid Act, established by Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 *et seq.*, is spending-power legislation pursuant to which the federal government provides financial support to participating States that furnish medical assistance to needy individuals. *Medina*, 145 S. Ct. at 2226. Illinois’s Medicaid program is administered by its Department of Healthcare and Family Services (“HFS”), of which respondent Elizabeth Whitehorn is the Director. Pet. App. 2a.

In traditional fee-for-service Medicaid systems, States enroll eligible individuals and pay healthcare providers directly. *Id.* at 4a. For such systems, § 1396a(a)(37)(A) of the Medicaid Act requires a State’s Medicaid plan to adopt procedures that ensure that the State pays 90 percent of practitioners’ “clean claims” (for which all necessary information to process the claim is provided) within 30 days, and pays 99 percent of such claims within 90 days (the “30-day/90-day schedule”). 42 U.S.C. § 1396a(a)(37)(A).

In 1997, Congress amended the Medicaid Act to allow state Medicaid plans to include managed-care programs. Pub. L. No. 105-33, 111 Stat. 251 (1997). In these programs, States do not have a contractual relationship with healthcare providers and are prohibited from making payments to them. 42 C.F.R. § 438.60. Instead, States pay a fixed fee to managed care organizations (“MCOs”) for each individual they enroll, and the MCOs, in turn, enter into contracts with healthcare providers and pay them for covered services under those contracts. See 42 U.S.C. § 1396u-2; *Cnty. Health Care Ass’n of N. Y. v. Shah*, 770 F.3d 129, 137 (2d Cir. 2014); Pet. App. 4a.

The amendment to the Medicaid Act that authorized state Medicaid plans to contract with MCOs included the statutory provision at issue here: § 1396u-2(f). That section provides that a State’s contract with an MCO shall require the MCO to pay providers “on a timely basis consistent with the claims payment procedures described in section 1396a(a)(37)(A) . . . , unless the health care provider and [MCO] agree to an alternate payment schedule.” Pet. App. 265a. It is undisputed that HFS’s contracts with MCOs include this provision. *Id.* at 195a, n.2.

2. Petitioner, a hospital in Chicago, provides medical care to many Medicaid recipients, including individuals enrolled with MCOs. *Id.* at 2a. Petitioner became concerned that the MCOs were not paying it on time, but it did not bring contract claims against the MCOs. Instead, it brought a § 1983 action in federal court against respondent seeking a judgment requiring her to force the MCOs to pay petitioner in accordance with the 30-day/90-day schedule. *Id.* at 5a-6a, 215a, 222a-224a.

In support of this claim, petitioner contended that § 1396u-2(f) imposes on participating States a duty to ensure that MCOs pay providers in accordance with the 30-day/90-day schedule, and that individual healthcare providers have a right to enforce that supposed duty under § 1983. *Id.* at 6a. The district court dismissed this claim, stating: “that’s not what the statute says at all.” *Id.* at 249a. The court specifically held that § 1396u-2(f) does not satisfy the standards announced in *Gonzaga*, 536 U.S. 273, and *Pennhurst State School and Hospital v. Halderman*, 451 U.S. 1 (1984), for finding that a spending-power statute imposes a specific duty on participating States

and gives individuals a right to enforce that duty under § 1983. *Id.* at 248a-249a, 234a-244a.

3. The Seventh Circuit reversed the district court's decision in a 2-to-1 opinion. *Id.* at 145a-213a. Over Judge Brennan's dissent, the majority read § 1396u-2(f) to impose on States a duty to ensure that MCOs are not guilty of "systemic failures" to pay providers on a timely basis, and to confer on individual providers a right to enforce that duty under § 1983. *Id.* at 154a, 179a; see also *id.* at 146a-147a, 154a-185a.

Respondent filed a petition for a writ of certiorari, and this Court granted the petition, vacated the panel opinion, and remanded for further consideration in light of its then-recent decision in *Talevski*, 599 U.S. 166, which addressed the standards for courts to apply to determine if a spending-power statute confers rights enforceable under § 1983. *Id.* at 143a-144a. On remand, the same Seventh Circuit panel reaffirmed its original holding, again in a 2-to-1 decision. *Id.* at 65a-142a. The Seventh Circuit granted en banc review and, in an opinion by Judge Brennan, held that § 1396u-2(f) does not confer on individual providers the § 1983-enforceable right to prompt payment claimed by petitioner. *Id.* at 1a-142a, 253a-254a.

To identify the appropriate test for recognizing rights enforceable under § 1983, the en banc court looked first to the "guidance" this Court provided in *Gonzaga*. *Id.* at 12a. It explained that under *Gonzaga*, a spending-power statute can be enforced by private parties "only when the law uses 'explicit rights-creating terms' and is 'phrased with an unmistakable focus on the benefited class.'" *Id.* at 13a (quoting *Gonzaga*, 536 U.S. at 284 (cleaned up)). This Court's decision in *Talevski*, the court elaborated, "put to rest

any doubt that ‘*Gonzaga* sets forth the established method for ascertaining’” whether a spending-power statute “‘unambiguously confers’ an enforceable right.” *Id.* at 13a (quoting *Talevski*, 599 U.S. at 183 (cleaned up)); see also *id.* at 13a-15a (describing test).

The court acknowledged petitioner’s reliance on “earlier private rights of action cases,” including, most notably, *Wilder*, 496 U.S. 498. *Id.* at 15a; see also *id.* at 13a. Although it recognized that this Court had not “expressly overruled” *Wilder* and other pre-*Gonzaga* cases, *id.* at 15a, it observed that the Court had described *Wilder* as “plainly repudiate[d]” by its subsequent opinions, *id.* at 15a n.2 (quoting *Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 330 n.* (2015)), and that in *Talevski* the Court had unanimously identified only “the *Gonzaga* framework as the proper method for ascertaining whether Congress conferred a § 1983-enforceable right in a Spending Clause law,” *id.* at 15a-16a. Accordingly, the court invoked *Gonzaga*, and not *Wilder*, to determine whether § 1396u-2(f) was enforceable under § 1983.

Applying *Gonzaga*, the Seventh Circuit held that § 1396u-2(f) does not give individual providers a § 1983-enforceable right to have States ensure prompt payments by MCOs. As the en banc court explained, that section “directs the states to include” certain provisions “in contracts with MCOs,” but “nothing in [its] text . . . signals Congress meant to confer a right on providers to receive prompt payments.” *Id.* at 18a. That statutory text, the court reasoned, reflected Congress’s decision to adopt a system of contract-based enforcement, not one relying on statutory rights enforceable under § 1983, to secure the MCOs’ commitment to make timely payments to providers.

Id. at 23a, 29a. Giving effect to this choice by Congress, the court added, respected separation-of-powers and federalism principles. “Out of respect for Congress,” it would not “replace § 1396u-2(f)’s contract-based scheme with a statutory-based one.” *Id.* at 29a. Nor would it “rearrange the players so that providers have enforceable rights against the state, rather than the state against MCOs.” *Id.* at 29a-30a. Any other decision would “raise serious federalism concerns,” the court held, “[b]ecause Congress did not, ‘with a clear voice,’ create a right enforceable against the state.” *Id.* at 30a (quoting *Pennhurst*, 451 U.S. at 17).

Judge Hamilton, joined by two other judges, dissented. *Id.* at 36a. The dissenting judges contended, among other things, that the majority had erred by overlooking *Wilder*, which in their view remained good law and applied reasoning that “easily extend[ed]” to the statutory provision at issue here. *Id.* at 49a; see also *id.* at 51a (stating that petitioner had a “recognized right to prompt payments . . . [u]nder *Wilder*” at the time § 1396u-2(f) was enacted). This Court, the dissenting judges observed, “was invited in *Talevski* to overrule *Wilder* and chose not to do so.” *Id.* at 54a.

4. Several months after the Seventh Circuit’s en banc decision, this Court granted certiorari in *Medina* to evaluate, among other things, the continuing vitality of *Wilder* and similar cases. 145 S. Ct. 2219. After the grant in *Medina*, but before the Court issued a decision in that case, petitioner in this case sought certiorari. Petitioner did not seek plenary review, but instead asked the Court to hold the case for *Medina*, which, petitioner maintained, presented the same

question as here: “whether, and to what extent” *Wilder* “remains good law,” Pet. 4, such that “the court of appeals [should] have treated *Wilder* as relevant,” *id.* at *i.* “If *Wilder* remains relevant,” petitioner argued, it “should prevail.” *Id.* at 11.

On June 26, 2025, while this petition was pending, the Court issued its decision in *Medina* and answered the question posed by the petition. The Court’s earlier decisions, it held, had “repudiat[ed]” *Wilder*, and so courts “should not” “consult *Wilder* . . . when asking whether a spending-power statute creates an enforceable individual right.” 145 S. Ct. at 2234. “To the extent lower courts feel obliged, or permitted, to consider the contrary reasoning of *Wilder*,” the Court added, “they should resist the impulse.” *Ibid.*

REASONS FOR DENYING THE PETITION

Petitioner asks this Court to grant the petition, vacate the judgment below, and remand for further consideration in light of *Medina*. Pet. 21. The Court should decline that invitation. *Medina* confirms that the Seventh Circuit both identified the correct legal rule and applied it correctly when it held that § 1396u-2(f) does not confer on providers a § 1983-enforceable right to have States ensure prompt payments by MCOs.

Because *Medina* Held That *Wilder* Is No Longer Good Law, There Is No Reason To Grant, Vacate, And Remand.

The Court generally grants, vacates, and remands in light of an intervening opinion only if there is “a reasonable probability that the decision below rests upon a premise that the lower court would reject if

given the opportunity for further consideration.” *Greene v. Fisher*, 565 U.S. 34, 41 (2011) (internal quotations omitted). Here, there is no probability that the Seventh Circuit would revisit the opinion below because that opinion was consistent in every respect with *Medina*.

Most fundamentally, the Seventh Circuit correctly predicted *Medina*’s doctrinal holding, namely that courts considering whether spending-power statutes confer rights enforceable under § 1983 should apply only *Gonzaga*, not the less demanding approach set out in *Wilder* and cases like it. In *Medina*, this Court explained that, “[t]o prove that a statute secures an enforceable right . . . and does not just provide a benefit or protect an interest, a plaintiff must show that the law in question ‘clear[ly] and unambiguous[ly]’ uses ‘rights-creating terms.’” 145 S. Ct. at 2229 (quoting *Gonzaga*, 536 U.S. at 284, 290) (brackets in original). “In addition,” the Court elaborated, “the statute must display ‘an unmistakable focus’ on individuals like the plaintiff.” *Ibid.* (quoting *Gonzaga*, 536 U.S. at 284). Finally, *Medina* made express “this Court’s longstanding repudiation of . . . *Wilder*’s reasoning,” and directed that lower courts “should not” “consult *Wilder* . . . when asking whether a spending-power statute creates an enforceable individual right.” *Id.* at 2234.

The Seventh Circuit’s approach is fully consistent with the test set forth in *Gonzaga* and reconfirmed in *Medina*. The en banc court explained that, under *Gonzaga*, a spending-power statute can be enforced by private parties “only when the law uses ‘explicit rights-creating terms’ and is ‘phrased with an unmistakable focus on the benefited class.’” Pet. App. 13a

(quoting *Gonzaga*, 536 U.S. at 284 (cleaned up)). And, the court added, this Court’s decision in *Talevski* “put to rest any doubt that ‘*Gonzaga* sets forth the established method for ascertaining’” whether a spending-power statute creates a § 1983-enforceable right. *Ibid.* (quoting *Talevski*, 599 U.S. at 183 (cleaned up)). Thus, as the dissent observed at length, see *id.* at 49a-51a, 54a, the en banc majority did not “consult *Wilder*.” On the contrary, the majority noted that this Court had “expressed . . . considerable doubts about *Wilder*.” Pet. App. 15a n.2.

Next, after correctly establishing *Gonzaga*—and not *Wilder*—as the source of the applicable test, the Seventh Circuit properly applied that test to hold that § 1396u-2(f) did not create rights enforceable under § 1983. Heeding *Gonzaga*’s emphasis on identifying “explicit rights-creating terms,” 536 U.S. at 284, the court held that § 1396u-2(f) lacks such language. “Noticeably missing from § 1396u-2(f),” it observed, “is any mention of rights.” Pet. App. 18a. And although a statute need not expressly use the term “right,” the court added, “nothing in the text [of § 1396u-2(f)] signals Congress meant to confer a right on providers to receive prompt payments.” *Ibid.* On the contrary, the statute simply requires States to “include prompt payment provisions in their contracts” with MCOs, “thereby giving rise to *contractual* obligations on the part of MCOs . . . owed to the *state*,” rather than § 1983-enforceable rights conferred on providers. *Id.* at 23a (emphasis in original); see also *id.* at 19a-20a (§ 1396u-2(f) is “expressly focused on what a contract between a state and MCO must contain,” and thus “centers on the *state*’s contractual relationship with *MCOs*, not what, if any, rights

providers are entitled to under federal law”) (emphasis in original).

The Seventh Circuit, in other words, correctly identified and applied the test articulated in *Gonzaga*, which *Talevski* and *Medina* reaffirmed, to hold that § 1396u-2(f) is not one of the “rare federal spending-power statutes that confer individual rights enforceable under § 1983.” *Medina*, 145 S. Ct. at 2228.

The en banc dissent, by contrast, believed the majority should have followed *Wilder*, which in its view remained good law and applied reasoning that “easily extend[ed]” to § 1396u-2(f). Pet. App. 49a. Based on *Wilder*, the dissent would have found that § 1396u-2(f)’s text confers individual rights because, it said, “[p]roviders like [petitioner] are the intended beneficiaries of the prompt payment term in section 1396u-2(f).” *Id.* at 43a (reasoning that “[n]o one benefits more directly from a requirement for timely payments to providers than the providers themselves”). But that approach, *Medina* explained, is precisely what *Wilder* exemplified and *Gonzaga* disavowed. See *Medina*, 145 S. Ct. at 2233-2234 (*Gonzaga* “rejected” *Wilder*’s focus on whether a statute “is intended to benefit the putative plaintiff”) (internal quotations omitted)).

The dissent departed further from *Medina* by considering § 1396u-2(f)’s “history and context.” Pet. App. 47a; see also Pet. 17 (echoing dissent’s reliance on Congress’s purported “understanding” at the time it enacted § 1396u-2(f) that “‘providers like Saint Anthony already had a recognized right to prompt payments” under 1396a(a)(37)(A) (quoting Pet. App. 51a)). But *Medina* explained that the “key” to identifying § 1983 enforceable rights in spending-power statutes is not what members of Congress may

have intended, “but what the States are clearly told.” 145 S. Ct. at 2237. And not only did the dissent err in departing from the statutory text to consider legislative history, it also misapprehended that history. Section 1396a(a)(37)(A) set a schedule for state payments to “practitioners,” such as doctors, not to hospitals. See *Illinois Council on Long Term Care v. Bradley*, 957 F.2d 305, 306, 308, 310 (7th Cir. 1992). As a result, hospitals like petitioner had no right to receive payments under § 1396a(a)(37)(A)’s schedule, much less a right that could be enforced against States through a § 1983 lawsuit.

In the end, petitioner’s argument that § 1396u-2(f) gives it a § 1983-enforceable right to receive prompt payments from MCOs depends entirely on the assumption that *Wilder* remains good law, as petitioner itself acknowledges. See, e.g., Pet. 11 (“If *Wilder* remains relevant, Saint Anthony should prevail.”) (quoting header); *id.* at 15 (“Whether *Wilder* continues to be good law is the controlling issue in this case.”). But *Medina* squarely held that *Wilder* is *not* good law, instructing lower courts that, “[w]hen asking whether a spending-power statute creates an enforceable individual right,” they “should not” “consult *Wilder*.” 145 S. Ct. at 2234. Petitioner advances no argument in the petition as to why a grant, vacate, and remand in light of *Medina* would be appropriate if *Medina* reached the same conclusion about *Wilder* as the Seventh Circuit did. Although petitioner suggests that taking that approach might be proper “[w]hatever the outcome in *Medina*,” Pet. 21, it offers no serious explanation as to why the court of appeals might reach a different result. Nor could it, given that the en banc majority correctly identified and applied this Court’s

precedents in a manner consistent with *Medina*.

At bottom, *Medina* resolved what petitioner called the “controlling issue in this case,” namely “[w]hether *Wilder* continues to be good law.” Pet. 15. Because it did so in a way consistent with the opinion below, there is no reason to grant, vacate, and remand yet again.

CONCLUSION

The petition for a writ of certiorari should be denied.

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