Medina v. Planned Parenthood South Atlantic: Defunding Abortion Businesses' Medicaid Dollars

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The Supreme Court issued a 6-3 decision in *Medina v. Planned Parenthood South Atlantic*, [1] ruling that the Medicaid Act's any-qualified-provider provision[2] does not confer a right that is enforceable under 42 U.S.C. § 1983. This means that neither Planned Parenthood nor its patients may bring a lawsuit in federal court challenging South Carolina's decertification of the abortion business as a Medicaid provider. Although the Supreme Court focused on the procedural issue, the case's outcome touches broader questions of respecting the dignity of unborn human life, defunding abortion businesses, and recognizing states' broad powers to support authentic women's healthcare rather than elective abortions.

South Carolina's Decision to Defund Planned Parenthood

In 2018, Governor Henry McMaster directed the South Carolina Department of Health and Human Services "to deem abortion clinics . . . as unqualified to provide family planning services and, therefore, to immediately terminate them upon due notice and deny any future such provider enrollment applications for the same."[3] South Carolina made this decision because "the preservation of life is the ultimate right to be protected and necessarily includes the life of unborn children."[4] Likewise, South Carolina's law directs that "State funds appropriated for family planning must not be used to pay for abortion."[5] By decertifying abortion clinics as Medicaid providers, the state avoids indirectly subsidizing abortion, and, instead, can use the funds to support authentic women's healthcare.[6]

Planned Parenthood and one of its patients sued South Carolina officials in federal court over the decertification decision. The district court permanently enjoined the state officials from determining that Planned Parenthood is unqualified to provide Medicaid services solely because the clinic provides abortions.[7] The Fourth Circuit

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[1] Medina v. Planned Parenthood S. Atl., 606 U.S. ___ (June 26, 2025).
[2] 42 U.S.C. § 1396a(a)(23)(A).
[3] Pet. for a Writ of Cert. 159a, *Medina*, 606 U.S. ___ (No. 23-1275).
[4] *Id.* at 157a.
[5] *Id.* at 157a–58a (citing S.C. CODE ANN. 43-5-1185 (1997)).
[6] *Id.* at 150a.
[7] Planned Parenthood S. Atl. v. Baker, 487 F. Supp. 3d 443 (D.S.C. 2020).

affirmed.[8] The state filed a petition for a writ of certiorari in the Supreme Court, which the Court granted, while also vacating the Fourth Circuit's judgment, and remanding the case to the Fourth Circuit in light of *Health and Hospital Corporation of Marion County v. Talevski*,[9] which concerned a similar procedural question of rights that are enforceable under 42 U.S.C. § 1983. Upon remand, the Fourth Circuit again affirmed,[10] contributing to the 5-2 circuit split over whether the any-qualified-provider provision contains a Section 1983-enforceble right.[11]

The case returned to the Supreme Court, and the Court agreed to review it on a single issue: "[w]hether the Medicaid Act's any-qualified-provider provision unambiguously confers a private right upon a Medicaid beneficiary to choose a specific provider."[12] In other words, may Planned Parenthood bring this type of lawsuit in federal court on behalf of its patients?

Under the Medicaid Act's any-qualified-provider provision, state plans must provide Medicaid patients "such assistance from any institution . . . or person, qualified to perform the service or services required . . . , who undertakes to provide him such services . . . ."[13] Accordingly, the Medicaid patient has the benefit of deciding on their choice of a qualified provider. Planned Parenthood and its patient argued that this benefit is a *right*. In turn, the abortion clinic and Medicaid patient contended that they may enforce this right through 42 U.S.C. § 1983, which provides a cause of action for the deprivation of a federal right.[14]

AUL filed an amicus brief in this case supporting South Carolina. Our brief argued that the any-qualified-provider provision does not confer a Section 1983-enforceable right.[15] The Supreme Court heard oral argument on April 2, 2025, and after deliberation, held that the Medicaid Act's any-qualified-provider provision does not contain a Section 1983-enforceable right.[16]

Majority Opinion

Justice Gorsuch authored the Court's opinion, joined by Chief Justice Roberts, and Justices Thomas, Alito, Kavanaugh, and Barrett. The opinion begins by recognizing

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[8] Planned Parenthood S. Atl. v. Kerr, 27 F.4th 945 (4th Cir. 2022).
[9] Kerr v. Planned Parenthood S. Atl., 143 S. Ct. 2633 (2023) (mem.); *see* Health & Hosp. Corp. of Marion Cnty. v. Talevski, 599 U.S. 166 (2023).
[10] Planned Parenthood S. Atl. v. Kerr, 95 F.4th 152 (4th Cir. 2024).
[11] Five circuits, including the 4th Circuit in *Kerr*, held the any-qualified-provider provision grants a private enforceable right to the Medicaid patient. *Id.*; Planned Parenthood of Kan. v. Andersen, 882 F.3d 1205 (10th Cir. 2018); Planned Parenthood Ariz. Inc. v. Betlach, 727 F.3d 960 (9th Cir. 2013); Planned Parenthood of Ind., Inc. v. Comm'r of Ind. State Dep't of Health, 699 F.3d 962 (7th Cir. 2012); Harris v. Oszewski, 442 F.3d 456 (6th Cir. 2006). Two Circuits, including the 5th Circuit en banc, held the any-qualified-provider provision does not confer a private enforceable right upon the Medicaid patient. Planned Parenthood of Greater Tex. Fam. Plan. & Preventative Health Servs., Inc. v. Kauffman, 981 F.3d 347 (5th Cir. 2020) (en banc); Does v. Gillespie, 867 F.3d 1034 (8th Cir. 2017).
[12] Pet. for a Writ of Cert., *supra* note 3, at i.
[13] 42 U.S.C. § 1396a(a)(23)(A).
[14] Br. for Resp'ts 16–50, Medina v. Planned Parenthood S. Atl., 606 U.S. ___ (2025) (No. 23-1275).
[15] Br. Amicus Curiae of Americans United for Life, *Medina*, 606 U.S. ___.
[16] *Medina*, 606 U.S. ___, slip op. at 24.

that "Medicaid offers States 'a bargain.' In return for federal funds, States agree 'to spend them in accordance with congressionally imposed conditions.'"[17] However, if "a State fail[s] to comply substantially with those conditions, the Secretary of Health and Human Services can withhold some or all of its federal Medicaid funding."[18] Here, the question is "whether, in addition to that remedy, individual Medicaid beneficiaries may sue state officials for failing to comply with one funding condition spelled out in 42 U.S.C. § 1396a(a)(23)(A)."[19]

Part I of the Court's opinion discusses the background of the Medicaid Act and this case. As the Court describes, "Congress created Medicaid in 1965 to subsidize state efforts to provide healthcare to families and individuals 'whose income and resources are insufficient to meet the costs of necessary medical services.'" [20] Every state participates in Medicaid. States submit their plans for medical assistance to the HHS secretary, and these "plan[s] must satisfy more than 80 separate conditions Congress has set out in § 1396a(a)."[21] After the HHS Secretary approves the plan, states receive federal funds and contribute state funds to implement the program.

One of the conditions is the any-qualified-provider provision, 42 U.S.C. § 1396a(a)(23), which is at issue in this case. This provision directs state plans to ensure Medicaid patients may obtain medical assistance from a qualified provider. However, "[t]he provision does not define the term 'qualified,' perhaps because States have traditionally exercised primary responsibility over 'matters of health and safety,' including the regulation of the practice of medicine."[22]

The Court's decision explains that Planned Parenthood and one of its patients sued the director of South Carolina's Department of Health and Human Services following the state's decision to exclude Planned Parenthood from the Medicaid program.[23] Planned Parenthood argues that it may bring this lawsuit through 42 U.S.C. § 1983 for the deprivation of a purported right under the Medicaid Act, *i.e.*, under the any-qualified-provider provision.[24]

Although Section 1983 creates a cause of action for the violation of a federal right, the Supreme Court recognizes that "federal statutes do not confer 'rights' enforceable under § 1983 'as a matter of course.'"[25] This rule "is particularly true of statutes, like Medicaid, enacted pursuant to Congress' spending power," because the "typical remedy" is for the "Federal Government to terminate funds to the State."[26]

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[17] *Id.* at 1 (citing Armstrong v. Exceptional Child Ctr., Inc., 575 U.S. 320, 323 (2015)).
[18] *Id.*
[19] *Id.*
[20] *Id.* (citing *Armstrong*, 575 U.S. at 323).
[21] *Id.* at 2.
[22] *Id.* at 2 (citing De Buono v. NYSA-ILA Med. & Clinical Servs. Fund, 520 U.S. 806, 814 (1997)).
[23] *Id.* at 3.
[24] *Id.*
[25] *Id.* (citing Health & Hosp. Corp. of Marion Cnty. v. Talevski, 599 U.S. 166, 183 (2023)).
[26] *Id.* at 4 (citations omitted).

The Supreme Court continues in Part II to discuss Section 1983 lawsuits, the nature of Spending Clause statutes as a contract, and Section 1983-enforceable rights in Spending Clause legislation. "Historically, individuals brought § 1983 suits to vindicate rights protected by the Constitution. But, in 1980, this Court recognized that § 1983 also authorizes private parties to pursue violations of their federal statutory rights."[27] Notably, "§ 1983 provides a cause of action 'only for the deprivation of rights, privileges, or immunities, not benefits or interests.'"[28] As the Court highlights, "[t]o prove that a statute secures an enforceable right, privilege, or immunity, 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.'"[29] Likewise, "the statute must display 'an unmistakable focus' on individuals like the plaintiff."[30] According to the Court, this test is "stringent" and "demanding",[31] "[a]nd even for the rare statute that satisfies it, this Court has said, a § 1983 action still may not be available if Congress has displaced § 1983's general cause of action with a more specific remedy."[32] There also are policy considerations since "the decision whether to let private plaintiffs enforce a new statutory right poses delicate questions of public policy. New rights for some mean new duties for others."[33] These public policy questions "belong[] to the people's elected representatives, not unelected judges charged with applying the law as they find it."[34]

Spending Clause statutes are less likely to contain a Section 1983-enforceable right. There is "no 'Spending Clause,' strictly speaking."[35] The spending power comes from Congress' "[p]ower to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States."[36] However, under the anti-commandeering doctrine, this clause "does [not] include 'the power to issue direct orders to the governments of the States.'"[37] Rather, "early courts described federal grants not as commands but as contracts," even though "agreements between state and federal governments are not exactly the same as contracts 'between individuals'" since there are two sovereignties—the federal government and state government.[38]

Jurisprudence has developed a test for private enforceable rights within Spending Clause legislation. The Court recognized that Spending Clause legislation "is much in the nature of a contract" in *Pennhurst State School and Hospital v. Halderman*, and established the clear statement rule: that "Congress [must] alert[] the State in advance,

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[27] *Id.* at 6 (citing Maine v. Thiboutot, 448 U.S. 1 (1980)).
[28] *Id.* (citing Gonzaga Univ. v. Doe, 536 U.S. 273, 283 (2002)) (cleaned up).
[29] *Id.* (citing *Gonzaga*, 536 U.S. at 284, 290) (first alteration added).
[30] *Id.* (citing *Gonzaga*, 536 U.S. at 284).
[31] *Id.* (citing Health & Hosp. Corp. of Marion Cnty. v. Talevski, 599 U.S. 166, 180, 186 (2023)).
[32] *Id.* (citing Rancho Palos Verdes v. Abrams, 544 U.S. 113, 120 (2005)).
[33] *Id.* at 7.
[34] *Id.* (citations omitted).
[35] *Id.* at 8.
[36] U.S. CONST. art I, § 8, cl. 1.
[37] Medina v. Planned Parenthood S. Atl., 606 U.S. ___, slip op. at 8 (2025) (citing Murphy v. Nat'l Collegiate Athletic Ass'n, 584 U.S. 453, 471 (2018)).
[38] *Id.* at 9, 10 (citing Searight v. Stokes, 3 How. 151, 167 (1845)).

'clear[ly]' and 'unambiguously,' that responding to private enforcement suits was a condition of its offer."[39] Under *Gonzaga University v. Doe*, the Court clarified that "[s]pending-power legislation . . . cannot provide the basis for a § 1983 enforcement suit unless Congress 'speaks with a clear voice, and manifests an unambiguous intent to confer individual rights.'"[40] Two years ago, the Supreme Court in *Talevski* reaffirmed the *Gonzaga* test, that "relevant '[s]tatutory provisions must *unambiguously* confer individual federal rights' before a § 1983 may proceed, which "is a 'demanding bar' and a 'significant hurdle' that will be cleared only in the 'atypical case.'"[41]

At this point, the Court's opinion recognizes that some caselaw has diverged from the *Gonzaga* and *Talevski* framework, instead, creating a looser understanding of Section 1983-enforceable rights.[42] The Court particularly identifies *Wilder v. Virginia Hospital Association*,[43] *Wright v. Roanoke Redevelopment and Housing Authority*,[44] and *Blessing v. Freestone*.[45] The majority effectively overrules these cases, directing that "[s]ome lower court judges, including in this case, still consult *Wilder*, *Wright*, and *Blessing* when asking whether a spending-power statute creates an enforceable individual right. They should not."[46]

The Court then turns to Part III of the opinion, analyzing whether the plaintiffs may maintain a Section 1983 lawsuit to enforce the patient's purported right under the any-qualified-provider provision. The majority opinion recognizes that "[s]ince *Pennhurst*, this Court has identified only three sets of spending power statutes that confer enforceable rights under § 1983—those at issue in *Wright*, *Wilder*, and *Talevski*."[47] Since the Court just overruled *Wright* and *Wilder*, however, only *Talevski* may provide a comparison.

As the majority writes, the *Talevski* decision analyzed two provisions within the Federal Nursing Home Reform Act (FNHRA). These provisions explicitly talked about nursing-home residents' "rights" and were located in a subsection entitled "[r]equirements relating to residents' *rights*."[48] In contrast, the any-qualified-provider provision "speaks to what a State must do to participate in Medicaid," and does not contain "rights-creating language."[49] The Court recognizes that "Congress knows how to give a grantee clear and unambiguous notice that, if it accepts federal funds, it may

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[39] *Id*. at 11–12 (citing Pennhurst State Sch. & Hosp. v. Halderman, 451 U.S. 1, 17 (1981)).
[40] 536 U.S. 273, 280 (2002).
[41] *Medina*, 606 U.S. ___, slip op. at 13 (citing Health & Hosp. Corp. of Marion Cnty. v. Talevski, 599 U.S. 166, 180, 183–84 (2023)) (emphasis in original).
[42] *Id*. at 14.
[43] 496 U.S. 498 (1990).
[44] 479 U.S. 418 (1987).
[45] 520 U.S. 329 (1997).
[46] *Medina*, 606 U.S. ___, slip op. at 14 (citations omitted).
[47] *Id*. at 15.
[48] *Id*. (citing 42 U.S.C. § 1396r(c)) (emphasis in original).
[49] *Id*. at 16 (citing Health & Hosp. Corp. of Marion Cnty. v. Talevski, 599 U.S. 166, 186 (2023)).

face private suits asserting an individual right to choose a medical provider," but it did not do so here.[50]

The statutory context supports the Court's conclusion that there is no rights-creating language in the any-qualified-provider provision. The Medicaid Act provides various exceptions to the any-qualified-provider provision, which "makes perfect sense if [the any-qualified-provider provision] speaks only to a State's duties to the federal government." [51] Likewise, the state plan requirements are part of a substantial compliance regime, which focuses on the "aggregate", indicating the "statute addresses a State's obligations to the federal government, not the rights 'of any particular person.'"[52] The Supreme Court notes that if it recognized an individually enforceable right within the any-qualified-provider provision, then "[m]any other Medicaid plan requirements would likely do the same."[53]

In Part IV, the majority opinion addresses four counterarguments raised by Planned Parenthood and the dissent. First, the Court rejects the "appeal to legislative history" because "[w]hen it comes to interpreting the law, speculation about what Congress may have intended matters far less than what Congress actually enacted."[54]

Second, Planned Parenthood and the dissent argue that "Congress modeled § 1396a(a)(23)(A) on a Medicare provision titled 'Free choice by patient guaranteed,'" which they say confers an enforceable right.[55] Citing Planned Parenthood's brief, the Court notes that "[n]o court has addressed whether a Medicare beneficiary can enforce this provision under Section 1983," and upon comparison, it is apparent that Congress did not include language from that Medicare provision in the any-qualified-provider provision.[56]

Third, the majority believes that "instead of grappling meaningfully with the test our precedents provide, the dissent proposes to rewrite it."[57] The Court describes that "[i]n the dissent's view, a statute confers a privately enforceable right whenever it uses 'compulsory' and 'individual-centric terminology,' as long as it also evokes 'language classically associated with establishing rights.'"[58] However, the Court's "precedents do not authorize anything like the dissent's approach," which "would risk obliterating the longstanding line between mere benefits and enforceable rights."[59]

Fourth, Planned Parenthood and the dissent contend that this case has policy implications and "[o]nly § 1983 litigation . . . can give the any-qualified-provider

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[50] *Id.*
[51] *Id.* at 17.
[52] *Id.* (citing Gonzaga Univ. v. Doe, 536 U.S. 273, 288 (2002)).
[53] *Id.* at 18.
[54] *Id.* at 19 (citing Epic Sys. Corp. v. Lewis, 584 U.S. 497, 523 (2018)).
[55] *Id.* at 20 (citation omitted).
[56] *Id.* (citing Br. for Resp'ts, *supra* note 14, at 34 n.7).
[57] *Id.*
[58] *Id.* at 21 (citing *Medina*, 606 U.S. ___, slip op. at 12 (Jackson, J., dissenting)).
[59] *Id.*

provision the teeth it needs" notwithstanding existing remedies.[60] The Court rejects this stance, repeating that the federal government's "funding cutoffs [are] 'the typical remedy' when a grant recipient violates the terms of spending-power legislation."[61] Likewise, Planned Parenthood has the option of pursuing an appeal in the state administrative process, following by state judicial review, and even a petition for a writ of certiorari in the U.S. Supreme Court.[62] According to the Court, Congress can always create new remedies if existing ones are insufficient.[63] However, Congress, not the Judiciary, must "balance[e] those costs and benefits" because it is a "question of public policy."[64]

The Court concludes that "Section 1983 permits private plaintiffs to sue for violations of federal spending-power statutes only in 'atypical' situations, where the provision in question 'clear[ly]' and 'unambiguous[ly]' confers an individual 'right,' [and] Section 1396a(a)(23)(A) is not such a statute."[65]

Justice Thomas' Concurrence in the Opinion

Justice Thomas wrote a concurrence in the opinion to discuss the Supreme Court's broader Section 1983 jurisprudence. His concurrence stands for the proposition that, when the appropriate case comes before the Court, the Court should narrow the scope of Section 1983's applicability, which has implications for pro-life organizations and other public interest groups.

Part I begins by explaining the historical origins of Section 1983, which was enacted as the first section of the Civil Rights Act of 1871—an act designed to enforce the Fourteenth Amendment in light of ongoing violent threats and acts aimed at ex-slaves.[66] Originally, Section 1983 provided a means by which private plaintiffs could obtain redress from state and local officials for certain constitutional violations:

> "[A]ny person who, under color of any law, statute, ordinance, regulation, custom, or usage of any State, shall subject, or cause to be subjected, any person within the jurisdiction of the United States to the deprivation of any rights, privileges, or immunities secured by the Constitution of the United States, shall . . . be liable to the party injured in any action at law . . . ."[67]

The Justice acknowledged the 1874 statutory amendment that extended Section 1983's reach to some statutory violations, but pointed out that this alteration was not intended to change the content of federal statutory law, but only to "reproduc[e]" the

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[60] *Id.* at 22.
[61] *Id.* at 23 (citing Pennhurst State Sch. & Hosp. v. Halderman, 451 U.S. 1, 17 (1981)).
[62] *Id.*
[63] *Id.*
[64] *Id.* at 24.
[65] *Id.* at 24 (citations omitted) (alterations in original).
[66] *Medina*, 606 U.S. ___, slip op. at 2 (Thomas, J., concurring).
[67] *Id.* at 2 (citing Civil Rights Act of 1871, 17 Stat. 13) (second alteration added).

"existing laws," with "such additions . . . as shall give to these provisions their intended effect."[68]

The Justice explains how the mostly unchanging text of Section 1983 has, by judicial decree, expanded significantly beyond the original scope of the 1870s. Early on, the Court deemed Section 1983's "protection of 'rights, privileges, or immunities' to 'refer to civil rights only.'"[69] Although the Court "never was precise about what these civil rights were," the case law typically focused on "the rights that Congress had delineated in the Civil Rights Act of 1866."[70] Courts later adopted Justice Stone's view that the pertinent rights were "one[s] of personal liberty," such as free speech and assembly, not "property rights."[71] The courts also adopted "a restrictive reading of the statute's reference to rights 'secured by' the Constitution and laws," construing that phrase to "exclud[e] rights that did not . . . take their origin in or derive 'directly' from the Constitution or federal law."[72]

In 1961, the Supreme Court dramatically shifted its Section 1983 jurisprudence with *Monroe v. Pape*.[73] Prior thereto, Section 1983 only imposed liability for actions "taken by officials pursuant to state law."[74] As Justice Thomas explains, "*Monroe* held that an official acts 'under color of law' and becomes subject to the statute so long as he 'is clothed with the authority of state law,' regardless of whether the State has authorized his actions."[75] Consequently, individuals can now bring Section 1983 suits for "violations committed *without* the authority of any" state law or "indeed even . . . violations committed in stark violation of state civil or criminal law."[76]

The Court kept broadening Section 1983—even rejecting Justice Stone's "prevailing view" that property rights ought to be excluded from Section 1983 jurisprudence.[77] Then in *Maine v. Thiboutot*, the Court found for the first time that Section 1983 "could reach statutory violations in addition to constitutional ones."[78] As a result, Section 1983 can now reach "'any and all violations' of rights secured by the Constitution or federal law."[79] Under this modern standard, a right is "'secured by' the Constitution or federal law as long as it 'unambiguously confer[s] individual rights upon

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[68] *Id.* at 2–3 (citing H. R. Misc. Doc. No. 31, 40th Cong., 3d Sess., 2 (1869)) (alteration in original).
[69] *Id.* at 3 (citing Holt v. Ind. Mfg. Co., 176 U. S. 68, 72 (1900)).
[70] *Id.* (citing Michael G. Collins, *Economic Rights, Implied Constitutional Actions, and the Scope of Section 1983*, 77 GEO. L. J. 1493, 1500–01 (1989)).
[71] *Id.* at 3–4 (citing Hague v. Comm. for Indus. Org., 307 U.S. 496, 527, 531 (1939)).
[72] *Id.* at 4 (citing Collins, *supra* note 70, at 1502–03 & nn. 59–60) (alteration in original).
[73] *Id.*(citing Monroe v. Pape, 365 U.S. 167 (1961)).
[74] *Id.*(citing *Monroe*, 365 U.S. at 184).
[75] *Id.*(citing *Monroe*, 365 U.S. at 184, 187).
[76] *Id.*(citing Crawford-El v. Britton, 523 U.S. 574, 611 (1998) (Scalia, J., dissenting)) (emphasis and alteration in original).
[77] *Id.*(citing Lynch v. Household Fin. Corp., 405 U.S. 538, 542 (1972)).
[78] *Id.*(citing Maine v. Thiboutot, 448 U.S. 1, 4–5 (1980); *Medina*, 606 U.S. ___, slip op. at 6 (majority opinion)).
[79] *Id.* at 5 (citing Health & Hosp. Corp. of Marion Cnty. v. Talevski, 599 U.S. 166, 225 (2023) (Thomas, J., dissenting)).

a class of beneficiaries,' and Congress did not manifest any contrary intent to make § 1983 unavailable."[80]

Federal courts went from hearing roughly 300 Section 1983 civil rights actions in 1961 (the year of the *Monroe* decision)[81] to facing tens of thousands of Section 1983 filings post-*Monroe* each year.[82] Section 1983 is now "easily the most important statute authorizing suits against state officials for violations of the Constitution and [federal] laws."[83]

In Part II, the concurrence turns to critique modern Section 1983 jurisprudence, noting that the "scant resemblance" between Section 1983 in 2025 and Section 1983 as it was traditionally understood gives good reason to doubt the modern understanding.[84] With textualism in mind, Justice Thomas explains that a statute's meaning depends on what its words "conveyed to reasonable people at the time they were written."[85] The Justice stated that the Court should, "in appropriate cases[,] revisit the proper bounds of [Section] 1983" to ensure that erroneous decisions are not elevated above duly enacted federal law.[86]

Justice Thomas highlights two important problems implicated by this case: (1) extending Section 1983 into spending-power jurisprudence, and (2) a modern and ahistorical understanding of the "rights" protected by Section 1983.[87] Section 1983 provides a means by which to redress the deprivation of "rights, privileges, or immunities secured by the Constitution and laws."[88] "But, legislation enacted under Congress's spending power cannot 'secure' rights as required by [Section] 1983."[89] This is so because a congressional exercise of power to spend "'is no more than a disposition of funds.'"[90] This remains true even when Congress makes conditions for receipt of federal funds. The Justice explains that conditional spending legislation does not itself "secure any rights," as it cannot "make certain" or "guarantee" that the obligations imposed by the spending conditions will be obliged.[91] Thus, "any third parties who benefit from those obligations cannot derive an enforceable federal right from the

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[80] *Id.* (citing *Talevski*, 599 U.S., at 183, 186).
[81] *Id.* (citing Crawford-El v. Britton, 93 F.3d 813, 830 (D.C. Cir. 1996) (Silberman, J., concurring)).
[82] *Id.* (citing Ruggero J. Aldisert, *Judicial Expansion of Federal Jurisdiction: A Federal Judge's Thoughts on Section 1983, Comity and the Federal Caseload*, 1973 L. & SOC. ORD. 557, 563).
[83] *Id.* at 5–6 (citing William Baude et al., HART & WECHSLER'S THE FEDERAL COURTS AND THE FEDERAL SYSTEM 1280 (8th ed. 2025) (alteration in original).
[84] *Id.* at 6 (citing Crawford-El v. Britton, 523 U.S. 574, 611 (1998) (Scalia, J., dissenting)).
[85] *Id.*(citing Antonin Scalia & Bryan Garner, READING LAW: THE INTERPRETATION OF LEGAL TEXTS 16 (2012)).
[86] *Id.*(citing Gamble v. United States, 587 U.S. 678, 711 (2019) (Thomas, J., concurring)).
[87] *Id.*
[88] *Id.* at 7 (citing Health & Hosp. Corp. of Marion Cnty. v. Talevski, 599 U.S. 166, 196–230 (2023) (Thomas, J. dissenting)).
[89] *Id.*
[90] *Id.*(citing *Talevski*, 599 U.S. at 196 (Thomas, J., dissenting)).
[91] *Id.*(citing *Talevski*, 599 U.S. at 201 (Thomas, J., dissenting); Joseph E. Worcester, A DICTIONARY OF THE ENGLISH LANGUAGE 1299 (1860); *accord* WEBSTER'S NEW INTERNATIONAL DICTIONARY 1911 (1909)).

legislation."[92] To hold otherwise would permit unconstitutional actions.[93] Drawing on the historical record, the Justice explains that Congress's "spending power is the power to spend only" and does not "carry with it any independent regulatory authority."[94]

The concurrence finds that the *Talevski* majority erred "[i]n holding that spending conditions . . . can directly impose obligations on the States with the force of federal law."[95] After noting that (when "fairly possible") statutes are ordinarily read to avoid conclusions of statutory unconstitutionality, Justice Thomas critiques the *Talevski* majority for choosing "an implausible reading of [Section 1983] that *created* constitutional infirmity—and substantial infirmity, at that, given the frequency with which modern spending legislation imposes spending conditions."[96]

The concurrence advocates for revisitation of Section 1983 but acknowledges that this case, *Medina*, "does not present an occasion to remedy [the Court's] error because the petitioner did not ask [the Court] to revisit [its] precedents."[97] But, in a future case where the party presentation principle does not induce the Court to abstain from addressing the issue, Justice Thomas "would make clear that spending conditions—which are by definition conditional—cannot 'secure' rights."[98]

Justice Thomas questions whether the Court's contemporary understanding of Section 1983 is overbroad with regards to the range of "rights, privileges, or immunities" covered by said statute.[99] He highlights the degree to which the judicial understanding of "rights" evolved over the 20th century, which makes him doubt that Section 1983, as originally understood, protects the range of "rights" that the modern Court deems it to cover.[100]

The Justice emphasizes the threshold question of what constitutes a "right" under Section 1983.[101] Regarding constitutional rights, he critiques the Court's assumption that "the term 'rights' has the same meaning in § 1983 as elsewhere."[102]

As Justice Thomas explains:

> [T]he Court has allowed [Section] 1983 to evolve "into an all-purpose constitutional litigation statute," with its reach growing in proportion to the Court's recognition of novel constitutional "rights" in other contexts,

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[92] *Id.*
[93] *Id.* at 8.
[94] *Id.* (Health & Hosp. Corp. of Marion Cnty. v. Talevski, 599 U.S. 166, 206, 224 (2023) (Thomas, J., dissenting)).
[95] *Id.* (citing *Talevski*, 599 U.S. at 299 (Thomas, J., dissenting)) (alterations in original).
[96] *Id.* (citing *Talevski*, 599 U.S. at 202 (Thomas, J., dissenting)) (emphasis in original).
[97] *Id.*
[98] *Id.*
[99] *Id.* at 9.
[100] *Id.*
[101] *Id.*
[102] *Id.*

> without consideration of whether [Section] 1983's original meaning can be so flexible. As to statutory rights, the Court has essentially collapsed the question whether a "right" exists into the broader inquiry whether there is a "righ[t] . . . secured by the Constitution and laws," as [Section] 1983 requires. Our current test asks whether a law "clearly and unambiguously uses rights-creating terms" and displays "an unmistakable focus on individuals like the plaintiff." But, the test does not consider the meaning of the term "rights" standing alone.[103]

The Justice then discusses the wide variety of constitutional and statutory "rights"—many "far removed from § 1983's Reconstruction era roots"—that, upon applying the aforementioned tests, the Court has recognized and found enforceable under Section 1983.[104] He next declares the need to revisit the threshold question of what constitutes a "right" under Section 1983.[105] Because the Court interprets statutes at the time of their enactment, "the answer to that question turns on how ordinary readers would have understood the phrase 'rights, privileges, or immunities' in 1871."[106] The Justice expresses his belief that such readers would have read Section 1983 more narrowly than the modern Court and would have read it in light of the Reconstruction era context—particularly with the phrase "rights, privileges, or immunities" echoing the Fourteenth Amendment's "privileges or immunities" clause.[107]

Justice Thomas then reasons that even if courts should give the term "rights" in Section 1983 the most liberal interpretation it could have received in 1871, that meaning would almost certainly be narrower than the modern jurisprudence.[108] Indeed, "[c]ase law from the period surrounding [Section] 1983 emphasized a distinction between rights and mere government benefits."[109]

The concurrence discusses the due process revolution of the 1960s and 1970s that extended the due process clause to cover traditionally unprotected categories like government jobs and benefits.[110] "The modern [Section] 1983 framework developed during the same period as this rights 'revolution,' and the Court's shift in cases like *Goldberg* [*v. Kelly*] inevitably influenced the Court's understanding of 'rights' in the [Section] 1983 context."[111] It is now commonplace for plaintiffs to bring Section 1983

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[103] *Id.*(citations omitted).
[104] *Id.* at 9–10 (citing Maine v. Thiboutot, 448 U.S. 1, 4–6 (1980); Health & Hosp. Corp. of Marion Cnty. v. Talevski, 599 U.S. 166, 184–86 (2023)).
[105] *Id.* at 10.
[106] *Id.*
[107] *Id.*
[108] *Id.* at 11.
[109] *Id.*
[110] *Id.* at 11–12 (citing Richard J. Pierce, *The Due Process Counterrevolution of the 1990s?*, 96 COLUM. L. REV. 1973, 1974, 1977–80 (1996).
[111] *Id.* at 12 (citing Goldberg v. Kelly, 397 U.S. 254 (1970)).

claims alleging constitutional violations that would have been unthinkable in 1871.[112] As to statutory Section 1983 claims, the case law largely stems from "plaintiffs' efforts to enforce so-called rights conferred through entitlement programs."[113] Thus, in light of the distinct, modern nature of the Court's current Section 1983 jurisprudence, the Justice doubts the Court's current interpretation of the term "rights" for Section 1983 purposes is proper.[114]

Justice Thomas reiterates that the majority opinion "properly applies [the Court's] precedents to resolve the question presented. As it makes clear, even under current doctrine, courts should not too readily recognize a statutory right as enforceable under [Section] 1983."[115] The Justice concludes by highlighting once more the "remarkable gap between the original understanding of [Section] 1983 and its current role," and that "a more fundamental reexamination of our [Section] 1983 jurisprudence is in order."[116]

Justice Jackson's Dissent

Justice Jackson dissented from the opinion, joined by Justices Sotomayor and Kagan. Notably, Justice Jackson wrote the Supreme Court's opinion in *Talevski*, which dealt with the same legal issue of a Section 1983-enforceable right in a Spending Clause statute.[117] In this case, Justice Jackson believes the any-qualified-provider provision contains an individual enforceable right.[118]

In Part I, the dissent discusses the Medicaid Act's requirements for state plans, which includes the any-qualified-provider provision.[119] Justice Jackson then reviews the procedural history of this case, particularly noting that the state's decertification of abortion clinics "would have forced two clinics operated by Planned Parenthood South Atlantic (PPSAT)—one in Charleston and one in Columbia—to stop serving any patients who rely on Medicaid."[120]

Continuing to Part II, Justice Jackson discusses how Section 1983 "authorizes private individuals to sue state or local officials who deprive them of 'any rights, privileges, or immunities secured by the Constitution and laws' of the United States."[121] The dissent describes that in *Maine v. Thiboutot*, the Supreme Court "makes clear that the word 'laws' 'means what it says' and is not 'limited to some subset of laws.'"[122] However, Section 1983 "speaks in terms of 'rights, privileges, or immunities,' not violations of federal law' more generally."[123] According to the dissent, the Court

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[112] *Id.*
[113] *Id.*
[114] *Id.*
[115] *Id.* at 12–13 (citing *Medina*, 606 U.S. ___, slip op. at 12–14 (majority opinion)).
[116] *Id.* at 13.
[117] Health & Hosp. Corp. of Marion Cnty. v. Talevski, 599 U.S. 166 (2023).
[118] *Medina*, 606 U.S. ___, slip op. at 2 (Jackson, J., dissenting).
[119] *Id.* at 2–3.
[120] *Id.* at 3.
[121] *Id.* at 6.
[122] *Id.* (citing Maine v. Thiboutot, 448 U.S. 1, 4 (1980)).
[123] *Id.* (citing Golden State Transit Corp. v. Los Angeles, 493 U.S. 103, 106 (1989)).

analyzed individual enforceable rights in *Wilder* and *Blessing*, creating the "*Blessing* factors," which "aimed merely to synthesize our past decisions, [and] struck a balance between § 1983's broad remedial goals and [the Court's] historical concern that States receive fair notice of their statutory obligations under federal law."[124]

Justice Jackson then turns to the *Gonzaga* test, which "made the test for evaluating the enforceability of statutory rights under § 1983 more stringent, [but] did not close the door on § 1983 enforcement altogether."[125] She notes that *Talevski* found an individual enforceable right under the *Gonzaga* test, and "rejected the defendant's argument that '§ 1983 contains an implicit carveout for laws that Congress enacts via its spending power.'"[126]

The dissent analyzes the any-qualified-provider provision, determining that it "easily satisfies the unambiguous-conferral test."[127] According to Justice Jackson, "the text of the provision is plainly 'phrased in terms of the persons benefitted'—namely, Medicaid recipients."[128] Likewise, the original session law also contained rights-creating language, since it was entitled "Free Choice By Individuals Eligible for Medical Assistance."[129] As Justice Jackson contends, "[t]his phrasing indisputably invokes language classically associated with establishing rights."[130] According to the dissent, "Congress intended the provision to be binding. Congress enacted the free-choice-of-provider provision in 1967—just two years after the original Medicaid Act—in direct response to efforts by some jurisdictions to steer Medicaid beneficiaries to specific providers."[131]

In Part III, the dissent rebuts the majority opinion and Justice Thomas' concurrence. According to Justice Jackson, the majority opinion's "approach . . . differs conspicuously from the approach [the Court] developed in *Gonzaga* and reaffirmed in *Talevski*."[132] As the dissent describes, "the Court builds its analysis around the simplistic premise that Medicaid's free-choice-of-provider provision 'looks nothing like th[e] FNHRA provisions' [the Court] upheld in *Talevski*."[133] Justice Jackson argues that this "approach warps [the Court's] reasoning in *Talevski*," by manufacturing "a requirement that Congress manifest an unambiguous intent to imitate FNHRA."[134] Therefore, the dissent continues, "[t]he majority's hyperfocus on FNHRA also widens the gap between [its] *Gonzaga* test and the text of § 1983 itself."[135] The dissent maintains that the any-qualified-provider provision and FNHRA "both employ individual-centric language that

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[124] *Id*. at 8.
[125] *Id*. at 10.
[126] *Id*. at 10–11 (citing Health & Hosp. Corp. of Marion Cnty. v. Talevski, 599 U.S. 171 (2023)).
[127] *Id*. at 11.
[128] *Id*. at 11 (citing *Talevski*, 599 U.S. at 183).
[129] *Id*. at 12 (all caps and emphasis omitted).
[130] *Id*. (citing U.S. CONST. amend. I; Faretta v. California, 422 U.S. 806, 833–34 (1975)).
[131] *Id*. at 12–13.
[132] *Id*. at 15.
[133] *Id*. (citing *Medina*, 606 U.S. ___, slip op. at 15–16 (majority opinion)).
[134] *Id*.
[135] *Id*.

focuses on the relevant beneficiaries and combine it with mandatory language directed at the relevant grant recipients."[136]

Justice Jackson then addresses the majority opinion's concerns that recognizing an individual enforceable right in the any-qualified-provider provision would create a slippery slope of other individual enforceable rights within the Medicaid Act.[137] The dissent notes "case law from the lower courts demonstrates that this fear is unfounded," because "[t]hose courts have recognized only a tiny handful of . . . individual rights" within those provisions.[138] As the dissent describes, most state-plan requirements have not had any Section 1983 litigation.[139] Likewise, neither *Wilder* nor *Blessing* opened the "floodgates" to Section 1983 lawsuits.[140]

According to the dissent, Justice Thomas' concurrence, which wants to review Section 1983 jurisprudence for "exceed[ing] its original limits,"[141] "is not tethered to the specific facts or arguments presented in this case."[142] Likewise, the dissent believes Justice Thomas' narrow understanding of the word "rights" would require "a broader—and more inclusive—survey of historical sources."[143]

The dissent concludes that Section 1983 lawsuits are the only "meaningful way" to enforce a Medicaid recipient's right to choose their own doctor, and the Court's decision "will strip those South Carolinians—and countless other Medicaid recipients around the country—of a deeply personal freedom: the 'ability to decide who treats us at our most vulnerable.'"[144]

Analysis of the Decision

The *Medina* decision forecloses abortion businesses and Medicaid patients from challenging the decertification of abortion clinics in federal court. The Supreme Court held the any-qualified-provider provision does not grant the Medicaid patient a right that is enforceable under Section 1983. However, the abortion business may challenge the state's decertification decision through a state administrative appeal, followed by state court review, and even a petition in the U.S. Supreme Court.[145] Likewise, "the federal government can . . . withhold some or all Medicaid funds from noncompliant States" or Congress may create new remedies if it determines existing remedies are insufficient.[146]

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[136] *Id*. at 17.
[137] *Id*. at 18.
[138] *Id*. at 19.
[139] *Id*.
[140] *Id*.
[141] *Id*. at 20 (citing *Medina*, 606 U.S. ___, slip op. at 1–2, 13 (Thomas, J., concurring)).
[142] *Id*.
[143] *Id*. at 21; *but see Medina*, 606 U.S. ___, slip op at 12 n.6 (Thomas, J., concurring) (addressing the dissent, Justice Thomas notes that "[his] point is precisely that further examination is warranted").
[144] *Id*. at 22 (citing Planned Parenthood S. Atl. v. Kerr, 95 F.4th 152, 169 (4th Cir. 2024)).
[145] *Medina*, 606 U.S. ___, slip op. at 23 (majority opinion).
[146] *Id*. (citing Br. for Resp'ts, *supra* note 14, at 44).

However, cutting abortion businesses off from the federal courts is a huge victory for the pro-life movement. An abortion clinic may challenge the decertification decision in a state administrative appeal, but states may defend against these appeals by showing that indirect subsidization of elective abortion is a matter of financial integrity, and, thus, within the state's powers to exclude a provider from the Medicaid program.[147] Likewise, the Medicaid Act directs state plans to substantially comply, not comply with every provision of 42 U.S.C. § 1396a, which lists state plan requirements.[148] Accordingly, even if a state excludes abortion providers, and even if this action arguably violates the any-qualified-provider provision, the federal government might still find a state is substantially complying with the Medicaid Act and not withhold funds from states. Finally, by removing abortion clinics' access to federal courts in these scenarios, states will not be liable for attorney's fees if they lose the Section 1983 lawsuit.[149]

One lingering question is what the word "qualified" means in the any-qualified-provider provision. Because the Supreme Court ruled on procedural grounds in *Medina*, it only made a passing mention that "qualified" is not defined in the Medicaid Act, likely because states have traditionally regulated the practice of medicine.[150] Under a common usage definition, which Planned Parenthood proposed, "qualified" would view "factors external to the Medicaid program; the provider's competency and professional standing as a medical provider generally."[151] Under this view, a Medicaid patient would "challenge the merits of a provider's decertification when the State permits that provider to continue providing care to other patients."[152] However, the Medicaid Act does not ask whether the provider is "qualified" to provide medical services *generally*; rather, it asks whether the provider is "qualified" to provide medical services *specifically* under the Medicaid program.[153]

The Medicaid Act uses the word "qualified" as a term of art to mean that a provider has been certified under the program,[154] which is what South Carolina argued in this case. The statute recognizes that states may exclude providers from the Medicaid program for a variety of reasons, including "a provider's excessive charges; fraud, kickbacks, or other prohibited activities; failure to provide information; failure to grant immediate access under specified circumstances; or default on loan or scholarship obligations."[155] Accordingly,"[f]ederal law expressly allows States to terminate a provider's Medicaid agreement on many grounds, including those articulated in the Medicaid Act, none of which contemplate that the provider must also be precluded from

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[147] *See* 42 U.S.C. § 1396a(p).
[148] *See* 42 U.S.C. § 1396c.
[149] 42 U.S.C. § 1988(b).
[150] *Medina*, 606 U.S. ___, slip op. at 2 (citing De Buono v. NYSA-ILA Med. & Clinical Servs. Fund, 520 U.S. 806, 814 (1997)).
[151] Does v. Gillespie, 867 F.3d 1034, 1053 (8th Cir. 2017) (Melloy, J., dissenting) (citing Planned Parenthood Ariz. Inc. v. Betlach, 727 F.3d 960, 969 (9th Cir. 2013)).
[152] *Does*, 867 F.3d at 1048–49 (Shepherd, J., concurring).
[153] *See* 42 U.S.C. 1396a(a)(23)(A).
[154] *See* Planned Parenthood of Greater Tex. Fam. Plan. & Preventative Health Servs., Inc. v. Kauffman, 981 F.3d 347, 368–69 (5th Cir. 2020) (en banc).
[155] *Id*. at 369 (citing 42 U.S.C. § 1320a-7(b)).

providing services to all non-Medicaid patients before termination is permissible."[156] This issue over the definition of "qualified" may emerge in proceedings before state administrative agencies and state courts if an abortion clinic appeals the state's decertification decision.

From a policy standpoint, the *Medina* decision gives pro-life states a legal roadmap on how to defund abortion businesses' Medicaid dollars. And from a litigation view, if a federal court previously blocked a pro-life state from decertifying abortion clinics as Medicaid providers, the state can go back into federal court to ask the court to lift the injunction.[157]

The *Medina* decision has a broader impact on American jurisprudence. The case reaffirms and strengthens the clear statement rule, that states must "voluntarily and knowingly" agree to the "contract" of Spending Clause legislation.[158] In its analysis, the Court acknowledges that early jurisprudence determined "federal-state agreements are really more like treaties 'between two sovereignties,'" [159] and recognizes the anti-commandeering doctrine: that the Spending Clause does not "include 'the power to issue direct orders to the governments of the States.'" [160] The Supreme Court also references the states' traditional police powers, especially over the practice of medicine.[161]

The concurrence—representing the view of only Justice Thomas—highlights that Reconstruction-era Section 1983 jurisprudence emphasized "a distinction between rights and mere government benefits." [162] This historical distinction between rights and government benefits has implications for the pro-life movement to the extent that funding for abortion "care" or assisted suicide are deemed, under certain circumstances, government benefits. Such judicial developments are unlikely to manifest anytime soon given that no other Justice signed onto the concurrence. However, the concurrence's distinction might become persuasive to a future, more historically minded Court.

South Carolina notably did not raise the issue of third-party standing, which is an open question in abortion jurisprudence post-*Dobbs*. Under *Roe*, abortion providers regularly asserted third-party standing to sue on behalf of their patients to challenge pro-life laws, even if states intended for those laws to protect women from unscrupulous practices by abortion businesses.[163] In *Singleton v. Wulff*, the Court "conclude[d] that it generally is appropriate to allow a physician to assert the rights of women patients as

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[156] *Id*. at 368 (citations omitted).
[157] *See* FED. R. CIV. PRO. 60(b)(5).
[158] Medina v. Planned Parenthood S. Atl., 606 U.S. ___, slip op. at 11–12, 14 (June 26, 2025).
[159] *Id*. at 10 (citing Neil, Moore & Co. v. Ohio, 3 How. 720, 742 (1845)).
[160] *Id*. at 8 (citing Murphy v. Nat'l Collegiate Athletic Ass'n, 584 U.S. 453, 471 (2018)).
[161] *Id*. at 2, 13 n.5.
[162] *Medina*, 606 U.S. ___, slip op. at 11 (Thomas, J., concurring).
[163] *E.g.*, June Med. Servs. L. L. C. v. Russo, 591 U.S. 299 (2020), *abrogated by* Dobbs v. Jackson Women's Health Org., 597 U.S. 215 (2022).

against governmental interference with the abortion decision."[164] Although courts commonly assumed abortion clinics had third-party standing, the Supreme Court questioned this assumption in the *Dobbs* decision, noting "[t]he Court's abortion cases . . . have ignored the Court's third-party standing doctrine."[165]

Here, Planned Parenthood and one of its patients sued, asserting the patient's purported right to her choice of a qualified provider.[166] Planned Parenthood did not have a right to challenge South Carolina's decertification decision; rather, they were only in federal court by asserting their patient's supposed right to a qualified provider.[167] In turn, the Medicaid patient was not only on the lawsuit, but she also represented a class of patients that were similarly situated.[168] Accordingly, under the third-party standing test, although the abortion clinic may have a "'close' relationship with the person who possesses the right," there was no "'hindrance' to the possessor's ability to protect his own interests" because the patient was on the lawsuit and represented a class of other Planned Parenthood patients.[169] In future litigation, states should vigorously challenge abortion providers' third-party standing in abortion litigation.

Thus, the *Medina* decision will have a long-term impact on policy to defund abortion businesses, as well as Spending Clause jurisprudence. However, there are remaining questions about the meaning of the word "qualified" in the Medicaid Act's any-qualified-provider provision and third-party standing of abortion providers.

Conclusion

The *Medina* decision was a victory for the pro-life movement. The Supreme Court held that neither Planned Parenthood nor its patient may bring a lawsuit in federal court to challenge the abortion clinic's decertification from the Medicaid program under the any-qualified-provider provision. Going forward, states must continue to support authentic women's healthcare and protect unborn human life.

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[164] 428 U.S. 106, 118 (1976); *see also June Med. Servs.*, 591 U.S. at 318 ("[The Supreme Court] ha[s] long permitted abortion providers to invoke the rights of their actual or potential patients in challenges to abortion-related regulations.").
[165] 597 U.S. at 286–87.
[166] *Medina*, 606 U.S. ___, slip op. at 3.
[167] 42 U.S.C. § 1396a(a)(23)(A).
[168] *Medina*, 606 U.S. ___, slip op. at 3.
[169] Kowalski v. Tesmer, 543 U.S. 125, 567 (2004) (citing Powers v. Ohio, 499 U.S. 400, 411 (1991)).