IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

MISSISSIPPI ASSOCIATION OF HEALTH PLANS, INC.	**PLAINTIFF**
V.	**CAUSE NO. 3:24-cv-379-HTW-LGI**
MIKE CHANEY, IN HIS OFFICIAL CAPACITY AS COMMISSIONER OF INSURANCE OF MISSISSIPPI	**DEFENDANT**

MISSISSIPPI ASSOCIATION OF HEALTH PLANS, INC.'S RESPONSE IN OPPOSITION TO MISSISSIPPI AMBULANCE ALLIANCE'S MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF

Plaintiff Mississippi Association of Health Plans ("MAHP") files this Response in Opposition to the Motion of the Mississippi Ambulance Alliance ("Alliance") requesting leave to file an *amicus curiae* brief in support of the Opposition to Plaintiff's Motion for Preliminary Injunction, Doc. 19, filed by Defendant Mike Chaney, in his official capacity as Commissioner of Insurance of the State of Mississippi ("Commissioner"). In support, MAHP shows as follows:

1. On August 22, 2024, the Alliance filed its Motion to File *Amicus* Brief in Support of Defendant, Mike Chaney's Response in Opposition to Plaintiff's Motion for Preliminary Injunction, Doc. 24, with the Alliance's proposed *amicus* brief, Doc. 24-1.

2. MAHP has not consented to the Alliance's motion.

3. For numerous, independent reasons, the Alliance's motion should be denied.

4. The evidentiary hearing and oral arguments on MAHP's Motion for Preliminary Injunction, Doc. 10, is scheduled for September 13, 2024, at 9:30 AM. A preliminary injunction ruling in mid-September, is crucial because the Commissioner must review and determine if certain policy changes as a result of the vague Coverage Mandate comply with Mississippi law (to

include the mandates in the Bill) before insurance companies can notify their subscribers of changes, which the Commissioner requires to be completed before October 15, 2024. Allowing the Alliance to file its proposed brief could potentially upend the long-anticipated hearing date.

5. The Alliance's proposed *amicus curiae* brief will not assist the Court because the bulk of its arguments bear no relationship to House Bill 1489, in the form it was enacted, or do not provide the Court guidance on the constitutionality of House Bill 1489.

6. The issues raised in the proposed brief have been adequately briefed by the Commissioner, who is ably represented by the Mississippi Attorney General's Civil Litigation Division.

7. The Alliance is not objective regarding this constitutional challenge. House Bill 1489 was designed to substantially benefit the Alliance's members through the expanded covered ambulance services compelled by the Coverage Mandate (at advanced life support rates) and the Reimbursement Mandate's unlimited, obligatory reimbursements. The Alliance's self-serving brief would only aid the Alliance's members, not the Court.

8. MAHP adopts and incorporates by reference, as if fully set forth herein, the references, arguments and authorities set forth in its *Memorandum Brief in Support of its Response in Opposition to the Mississippi Ambulance Alliance's Motion to File Amicus Brief*, being filed contemporaneously with this response.

9. For these reasons, the Alliance's Motion to File *Amicus* Brief should be denied.

ACCORDINGLY, Plaintiff Mississippi Association of Health Plans, Inc. requests the Court to enter an order denying non-party Mississippi Ambulance Alliance's Motion to File *Amicus* Brief. Plaintiff requests any additional relief the Court deems just and proper.

Dated: August 28, 2024.

Respectfully Submitted,

MISSISSIPPI ASSOCIATION OF HEALTH PLANS, INC

By: */s/ James A. McCullough, II*
James A. McCullough, II
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CERTIFICATE OF SERVICE

I hereby certify that on this day, a true and accurate copy of the foregoing was electronically transmitted to the Clerk of the Court using the ECF System for filing, which delivered notice of same to all counsel of record.

Dated: August 28, 2024.

/s/ James A. McCullough, II
James A. McCullough, II

IN THE UNITED STATES DISTRICT COURT
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MISSISSIPPI ASSOCIATION OF HEALTH PLANS, INC.	**PLAINTIFF**
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MIKE CHANEY, IN HIS OFFICIAL CAPACITY AS COMMISSIONER OF INSURANCE OF MISSISSIPPI	**DEFENDANT**

MISSISSIPPI ASSOCIATION OF HEALTH PLANS, INC.'S MEMORANDUM BRIEF IN SUPPORT OF ITS RESPONSE IN OPPOSITION TO MISSISSIPPI AMBULANCE ALLIANCE'S MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF

Plaintiff Mississippi Association of Health Plans, Inc. ("MAHP") files this Memorandum Brief in Support of its Response in Opposition to the Motion of the Mississippi Ambulance Alliance ("Alliance") requesting leave to file an *amicus curiae* brief in support of the Opposition to Plaintiff's Motion for Preliminary Injunction, Doc. 19, and the Memorandum in support thereof, Doc. 20, filed by Defendant Mike Chaney, in his official capacity as Commissioner of Insurance of the State of Mississippi ("Commissioner") on August 15, 2024.[1] MAHP has not consented to the Alliance's motion.

There are numerous independent reasons to deny the Alliance's motion. **First**, the evidentiary hearing and oral arguments on MAHP's Motion for Preliminary Injunction, Doc. 10, is scheduled for September 13, 2024, at 9:30 AM. A preliminary injunction ruling in mid-September, is crucial because the Commissioner must review and determine if certain policy changes as a result of the vague Coverage Mandate comply with Mississippi law (to include the

[1] District courts look to Federal Rule of Appellate Procedure 29 for guidance concerning the standards for filing an *amicus* brief. *Republican Nat'l Comm. v. Wetzel*, No. 1:24CV25-LG-RPM, 2024 WL 988383, at *5 (S.D. Miss. Mar. 7, 2024).

mandates in the Bill) before insurance companies can notify their subscribers of changes, which the Commissioner requires to be completed before October 15, 2024. Allowing the Alliance to file its proposed brief would potentially upend the long-anticipated hearing date.

Second, the proposed *amicus curiae* brief will not assist the Court because the bulk of its arguments bear no relationship to House Bill 1489, in the form it was enacted, or do not provide the Court guidance on the constitutionality of House Bill 1489. To be clear, the issues in this civil action center on whether House Bill 1489's Coverage Mandate is unconstitutionally vague and whether the Reimbursement Mandate substantially impairs existing contracts between MAHP's members and their subscribers. Because the majority of the proposed brief provides no aid to the Court in addressing those two issues, the Alliance's motion should be denied.

Third, the proposed *amicus curiae* brief will not assist the Court because the issues it raises have been adequately briefed. The Alliance's argument centers on the contention that MAHP has not demonstrated that "its members would suffer an actual, tangible injury if no preliminary injunction is entered," that MAHP's claims are "based on future events that may not occur as anticipated, or indeed may not occur at all", that "this matter is not ripe for adjudication," and that the public interest weighs against an injunction. Doc. 24-1 at 13. The Commissioner has raised and thoroughly briefed these very same arguments, and the Alliance offers nothing new, even discussing and attaching as exhibits some of the very same documents the Commissioner has filed and analyzed.

Finally, the Alliance is hardly objective regarding the issues raised in this constitutional challenge. House Bill 1489 was designed to substantially benefit the Alliance's members, ambulance service providers, through the expanded covered ambulance services compelled by the Coverage Mandate (at advanced life support rates) and the Reimbursement Mandate's unlimited,

obligatory reimbursements. The Alliance's self-serving brief would only aid the Alliance's members, not the Court. The Court should not allow the Alliance to advance its own interests in this way and should deny the Alliance's motion.

I. BACKGROUND AND PROCEDURAL POSTURE

MAHP filed its Complaint for Declaratory Judgment and Equitable Relief, Doc. 1, ("Complaint") on June 28, 2024. The Complaint requests the Court to declare that House Bill 1489, enacted by the Mississippi Legislature during its 2024 Regular Legislative Session ("House Bill 1489" or "the Bill") and signed into law by the Mississippi Governor on May 2, 2024, violates the Contract Clause of the United States Constitution (U.S. Const. Art. I, § 10) and the Due Process Clause of the Fourteenth Amendment to the United States Constitution, and seeks injunctive relief. On July 18, 2024, MAHP filed its Motion for Preliminary Injunction, Doc. 9, and supporting memorandum brief, Doc. 10, requesting the Court to enjoin Commissioner Chaney from exercising his authority under Mississippi law to implement or enforce House Bill 1489 until this action is decided on the merits. MAHP supplemented its Motion on August 1, 2024. Doc. 17 (collectively, with Docs. 9 and 10, the "Motion for Preliminary Injunction"). The Commissioner filed his Response to the Motion for Preliminary Injunction on August 15, 2024, and MAHP filed its Reply, Doc. 23, on August 22, 2024. Thus, briefing on the Motion for Preliminary Injunction is complete.

On July 22, 2024, Commissioner Chaney filed his Motion to Dismiss, Doc. 12, and supporting memorandum brief, Doc. 13 (collectively the "Motion to Dismiss"), requesting the Court to dismiss the Complaint pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure. MAHP filed its response to the Motion to Dismiss and accompanying memorandum brief on August 19, 2024, Docs. 21, 22, and the Commissioner filed his Reply on August 26, 2024, Doc. 25.

On August 22, 2024, the Alliance filed the instant Motion to File *Amicus* Brief in Support of Defendant, Mike Chaney's Response in Opposition to Plaintiff's Motion for Preliminary Injunction, Doc. 24, with the Alliance's proposed *amicus* brief, Doc. 24-1.

II. ARGUMENT

"Whether to permit a nonparty to submit a brief, as *amicus curiae*, is . . . a matter of judicial grace." *Owens v. Louisiana State Univ.*, 702 F. Supp. 3d 451, 452 (M.D. La. 2023) citing *U.S. v. Hamdan*, Crim. A. No. 19-60, 2021 WL 809376, at *5 (E.D. La. March 3, 2021) (quoting *In Re Halo Wireless, Inc.*, 684 F.3d 581, 596 (5th Cir. 2012)). In evaluating whether to grant a non-party leave to file an *amicus curiae* brief, district courts look to whether the information proffered by the brief is "'*timely and useful*' or otherwise *necessary to the administration of justice.*" *Texas v. United States*, No. 6:21-CV-00003, 2021 WL 2172837, at *1 (S.D. Tex. Mar. 5, 2021) quoting *U.S. ex rel. Gudur v. Deloitte Consulting LLP*, 512 F. Supp. 2d 920, 927 (S.D. Tex. 2007), *aff'd sub nom. U.S. ex rel. Gudur v. Deloitte & Touche*, No. 07-20414, 2008 WL 3244000 (5th Cir. Aug. 7, 2008)) (emphases added). In the Fifth Circuit, leave has been denied where "the issue [the non-party] seeks to address has been adequately briefed by the [parties], and that granting [the] motion would result in the needless delay of this case's disposition. *Ysleta Del Sur Pueblo v. El Paso Cnty. Water Improvement Dist. No. 1*, 222 F.3d 208, 209 (5th Cir. 2000).

"[T]he Court should [also] consider whether the organization seeking to file the *amicus* brief is an advocate for any party, which would be viewed with disfavor, whether the *amicus* has a special interest in the case, and whether the proposed *amicus* brief focuses on a broader legal interest." *Owens*, 702 F. Supp. 3d at 452 (denying motion for leave to file *amicus curiae* brief because parties are ably represented and have competently presented their respective positions,

finding *amicus curiae* briefing would not be helpful to the court in analyzing legal issues). As described by the Seventh Circuit Court of Appeals:

> The vast majority of *amicus curiae* briefs are filed by allies of litigants and duplicate arguments made in the litigants' briefs, in effect merely extending the length of the litigant's brief. Such *amicus* briefs should not be allowed. They are an abuse. The term "*amicus curiae*" means friend of the court, not friend of a party.
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> . . .
>
> An *amicus* brief should normally be allowed when a party is not represented competently or is not represented at all, when the *amicus* has an interest in some other case that may be affected by the decision in the present case (though not enough affected to entitle the *amicus* to intervene and become a party in the present case), or when the *amicus* has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide. Otherwise, leave to file an *amicus curiae* brief should be denied.

Nat'l Air Traffic Controllers Ass'n, MEBA, AFL-CIO v. Mineta, No. 99CV1152, 2005 WL 8169395, at *1–2 (N.D. Ohio June 24, 2005) (quoting *Ryan v. CFTC*, 125 F.3d 1062, 1063, 1064 (7th Cir. 1997)). The Alliance's proposed *amicus curiae* brief does not satisfy these standards, and thus the motion should be denied.

A. Granting the Alliance's motion may unnecessarily delay the Court's ruling on preliminary injunction.

The Alliance's motion to file an *amicus curiae* brief should be denied because it may result in a needless delay in the Court's ruling on MAHP's Motion for Preliminary Injunction, which is unnecessary since the issues the Alliance attempts to raise are irrelevant to the claims here or have been adequately and thoroughly briefed by the Commissioner, who is represented by the Office of the Attorney General's Civil Litigation Division.

Under regulations promulgated by the Mississippi Insurance Department ("MID") and the Insurance Code, the Commissioner must approve policy language and premium rates before they may take effect. MID's regulations provide, in part:

> No insurance company shall ever, under any circumstances, attempt to place any change of rate or any other change in a policy form into effect except after such change has been filed in this office and acknowledged, and where required by law, approved. In particular, any notice to an insured that a change in policy is being made, either a rate or other change, is prohibited except after filing of such change, acknowledgment thereof, and where required by law, approval. Any change as to a policy already issued may be effected only by endorsement attached to and made a part of such policy.

19 Miss. Admin. Code R. § 3-4.01. This regulation also requires that no health benefit changes or premium rate increases shall be implemented in certain health insurance policies unless "written notice is provided to the policyholder at least seventy-five (75) days prior to the effective date" of the change. *Id*. Section 83-9-4 of the Mississippi Code provides, in part, that "[t]he Commissioner of Insurance may disapprove a policy form, amendatory rider or endorsement currently in effect if the commissioner finds that a portion or all of the policy form, amendatory rider or endorsement is in any respect in violation of any state or federal laws." Miss. Code Ann. § 83-9-4(1)(a).

As addressed more fully in the Complaint and Motion for Preliminary Injunction, MAHP submits that the Coverage Mandate of House Bill 1489 is substantially incomprehensible, rendering it unconstitutionally vague. Because of this vagueness as to what is required of them, health insurance companies will be significantly impaired in defining coverage benefits and reimbursement terms purportedly required by the Bill and in implementing them through claim processing guidelines. This risk of harm is compounded by the timing requirements of MID Rule 19-3-4.01 and Miss. Code Ann. § 83-9-4(1)(a), which require that significant events must occur on or before October 18, 2024.

Despite the vagueness of House Bill 1489 as described in the Complaint and Motion for Preliminary Injunction, health insurance companies, including MAHP's members, must determine what they interpret the coverage and reimbursement requirements of the Bill to require, draft amended terms of benefits that may be required, and submit the same to the Commissioner for

review. Second, the Commissioner must review the submissions, and, in accordance with Rule 14.03 and Miss. Code Ann. § 83-9-4(1)(a), either approve or disapprove the submissions as being in compliance with state law, including House Bill 1489. In certain MAHP members' experience, the approval or disapproval review process could take thirty-days or longer, although an expedited review of ten days is possible. *See* Docs. 17-1, 17-2. In the likely event the insurance companies' and the Commissioner's interpretations of House Bill 1489 differ, a substantial likelihood exists the Commissioner will disapprove proposed benefits changes as not in compliance with House Bill 1489, which, if the Commissioner is not enjoined from doing, will require health insurance companies to reevaluate and revise their submissions, a process that will require additional time and jeopardize their ability to meet the October 18, 2024, deadline to notify insureds.

The hearing on MAHP's Motion for Preliminary Injunction is set for September 13, 2024, which should afford the parties sufficient time to comply with the Commissioner's deadlines for policy term review and subscriber notification. The Alliance's attempt to file an *amicus* brief—the substance of which MAHP is entitled to respond—could unnecessarily delay the proceedings and substantially jeopardize MAHP's members' ability to comply with 19 Miss. Admin. Code R. § 3-4.01's subscriber notification requirements.

B. The Alliance's proposed *amicus curiae* brief will not assist the Court because it's arguments neither bear any relationship to, nor provide the Court guidance on the constitutionality of, House Bill 1489.

The Court should deny the Alliance's motion for the additional reason that the proposed *amicus curiae* brief is mostly comprised of statements and arguments that are unrelated to House Bill 1489 as it was enacted. As a result, the Alliance's brief "is unnecessary to the Court's determination of the issues in" MAHP's Motion for Preliminary Injunction. *See Garcia-*

Bengochea v. Carnival Corp., No. 1:19-CV-21725-JLK, 2020 WL 13880658, at *1 (S.D. Fla. May 20, 2020).

First, the proposed brief includes a discussion about a "test" program purportedly administered by the U.S. Centers for Medicare and Medicaid Services ("CMS") pursuant to authority granted by the American Rescue Plan. Doc. 24-1 at 5–6, 17. In support, the Alliance attaches correspondence from a former congresswoman from Iowa to the Administrator of CMS, Doc. 24-1 at 26, and the CMS Administrator's reply, Doc. 24-1 at 27–28, discussing the program. While the purported relevance of this CMS "test" program to House Bill 1489 is not entirely clear, it appears the Alliance argues the program demonstrated improvements to patient outcomes and reductions in expenses. *See* Doc. 24-1 at 5. But the Alliance does not allege the Mississippi Legislature in any way considered the CMS study when enacting House Bill 1489. And while the purported results of an unrelated federal program *might* have demonstrated the reduction of certain costs to CMS, the evidence in this constitutional challenge—as demonstrated by the affidavits of Bryan Lagg and Aaron Riley Sisk, Docs. 17-1, 17-2—is that House Bill 1489 has and will continue to impose significant, unanticipated, and unrecoverable costs on MAHP's members and their subscribers. The Alliance's discussion of an unrelated CMS study does nothing to aid the Court in ruling on MAHP's Motion for Preliminary Injunction.

Similarly, the Alliance relies on a document titled, "HB 1489- To Use Ambulance & Hospital Emergency Resources to Greater Community Benefit." Doc. 24-1 at 30–33. The Alliance, however, does not allege that the Mississippi Legislature even received this undated document during its drafting and consideration of House Bill 1489, much less that its contents formed the basis of any purported public purpose behind House Bill 1489. This document discusses in depth the purported wisdom behind capping reimbursements at 325% of Medicare (where no contract

with a local government exists). *See, e.g.*, Doc. 24-1 at 42 ("This legislation follows national guidelines from the American Ambulance Association of setting the payment to be either 1) 100% of locally mandated rates developed by the local officials knowing their EMS systems and community or 2) set the payment to 325% of Medicare"); *id*. at 44 ("How will we contain costs within this proposal? . . . Where locally set rates don't exist, a reimbursement cap tied to the Medicare rate is the containment tool."); *id*. at 45 ("Why does the bill set 325% of Medicare as the payment for transports when there is not a locally set rate?"); *id*. at 46 ("What would the 325% rates look like in MS for Urban Areas?"). This document does not even reflect the final version of House Bill 1489, which does ***not*** cap reimbursements at 325% of Medicare—it provides no cap at all. This does nothing to aid the Court in determining the extent MAHP's members' contracts have been impaired by the Reimbursement Mandate.[2]

Second, the Alliance attempts to undermine MAHP's contention that the Coverage Mandate is unconstitutionally vague by stating that "Arkansas BlueCross BlueShield did not find the language of its TIP/TAD statute vague or ambiguous but rather sees the value of and cost savings associated with TIP/TAD programs and likewise, have embraced the new law and set up payment and coding policies for TIP/TAD expenditures." Doc. 24-1 at 8. In support of this statement, the Alliance cites a three-sentence letter from Pafford Medical Billing Services, Doc. 24-1 at 41—not Arkansas BlueCross Blue Shield—merely stating that Pafford has had "no challenges billing TIP to BCBS Arkansas" using Arkansas BlueCross Blue Shield's billing guidelines, which the Alliance attaches to its proposed brief, Doc. 24-1 at 34–40. Not only does the Pafford letter not say the things to which the Alliance attributes it, the Commissioner has

[2] This document also lists other states that have enacted some version of House Bill 1489's Reimbursement Mandate. Doc. 24-1 at 44–45. However, as the Alliance's own document demonstrates, ***none*** of those states' laws provide an unlimited reimbursement.

already made these arguments about the Arkansas BlueCross Blue Shield's billing guidelines. Doc. 20 at 3, 20, 23 n.8; Doc. 25 at ¶8. Moreover, as MAHP has explained, Arkansas' version of the Coverage Mandate is substantively different than the Coverage Mandate found in House Bill 1489. Doc. 23 at 5–6. The Pafford letter does nothing to explain what the provisions of House Bill 1489 say or mean. It merely suggests that an ambulance service provider in another state has been able to submit bills and receive payments from an insurance company in that other state, pursuant to legislation that is different than the legislation at issue in this case. This does nothing to aid the Court in deciding this constitutional challenge.[3]

Third, the Alliance's proposed brief discusses (and attaches) a letter from the Executive Director of the Mississippi Center for Advancement of Prehospital Medicine. Doc. 24-1 at 12, 53. This letter relates only to the Coverage Mandate but provides no explanation or insight about the meaning of the Coverage Mandate's terms—the only issue about the Coverage Mandate in this case. Any purported public purpose behind the Coverage Mandate is not relevant to MAHP's vagueness claim.[4]

Finally, in continuing to dispute the sworn evidence presented in this matter with anecdotal information from other states, the Alliance's proposed brief discusses alleged cost-savings

[3] Similarly, the Alliance relies on statements made by Rep. Stacey Hobgood-Wilkes—not during the legislative process but after this civil action was filed—who the Alliance contends "rejects the validity of the instant lawsuit and the assertions made by MAHP." Doc. 24-1 at 10. Whether a non-party agrees with the allegations of this matter in no way explains the terms of the Coverage Mandate or addresses the substantial impairment of MAHP's members' contracts perpetrated by the Reimbursement Mandate. These statements do not aid the Court.

[4] The same is true with the Alliance's discussion of a letter from the Mississippi Association of Supervisors supporting ambulance legislation (without identifying any specific bill or policy). Doc. 24-1 at 3 n.4, 29. The letter is undated—meaning there is no way to know when, if at all, during the legislative process it was transmitted, which is especially important since there were numerous versions of House Bill 1489—and does not provide any insight on the meaning of the Coverage Mandate and does not mention the Reimbursement Mandate. The letter's request that legislation "be passed from the Senate" makes clear that the letter predated the Senate's change from "lesser than" to "greater than" in the Reimbursement Mandate. Accordingly, the letter does not discuss the final form of House Bill 1489.

resulting from Louisiana's version of the Reimbursement Mandate.[5] Doc. 24-1 at 10, 47–48. The Alliance alleges that "Louisiana law, like HB 1489, awards ambulance providers compensation at a rate of 325% of the current published rate for ambulance services as established by CMS, if no rates have been set or approved by the ambulance provider and the insurance company." But this is nothing like House Bill 1489's Reimbursement Mandate, which requires reimbursement in any amount billed by an out-of-network ambulance service provider, so long as no contract or ordinance setting rates has been approved by a local governing authority. The Alliance's reference to the purported cost-savings resulting from Louisiana's reimbursement laws is irrelevant and will not aid the Court in deciding this matter.

C. The Alliance's proposed *amicus curiae* brief will not assist the Court because the issues it raises have been adequately briefed.

"An *amicus curiae* memorandum is of considerable help to the Court if it brings to the Court's attention relevant matters that the parties have not already addressed. A filing that does not serve this purpose burdens the Court and is not favored." *Entergy Nuclear Vermont Yankee, LLC v. Shumlin*, No. 1:11-CV-99 JGM, 2011 WL 1883040, at *3 (D. Vt. May 17, 2011). An *amicus* brief "should address matters not adequately addressed by a party, and it may omit items included in a party's memorandum." *Id*. Many of the issues raised by the Alliance have been adequately briefed by the Commissioner, who is ably represented by the Mississippi Attorney General's Civil Litigation Division.

[5] The Alliance also provides a declaration of Tracy Wold, the purported owner of a Louisiana consulting firm. Doc. 24-1 at 13, 54–57. Ms. Wold's declaration, like other sources cited by the Alliance, offers no explanation for the meaning of the Coverage Mandate's contested terms, nor does it provide any evidence that directly refutes MAHP's allegations and evidence, Docs. 17-1, 17-2, that the Reimbursement Mandate impairs its members' current contracts. Ms. Wold provides general, anecdotal statements and, in conclusory fashion, determines that House Bill 1489 is "clear, unambiguous, and consistent with statutes that have been adopted in other states and remain unchallenged." Doc. 24-1 at 56. Setting aside the fact that the statutes in other states have material differences from House Bill 1489, Doc. 23 at 5–6, even *if* it was evident that Ms. Wold is qualified to interpret the provisions of a Mississippi statute, her declaration is comprised of nothing more than her opinions, which are unavailing and unhelpful to deciding the limited issues in this constitutional challenge.

The Alliance summarizes the arguments in its proposed brief as follows:

> MAHP failed to provide this Honorable Court with credible, empirical data that proves its members would suffer an actual, tangible injury if no preliminary injunction is entered in this matter. At best, MAHP's assertion that it would suffer astronomical financial losses if forced to comply with HB 1489 is based on future events that may not occur as anticipated, or indeed may not occur at all. As such, this matter is not ripe for adjudication. Furthermore, public interest and Mississippians' right to quality pre-hospital care weigh against an injunction. Therefore, this Court should deny the Motion for Preliminary Injunction as well as dismiss this action.

Doc. 24-1 at 13. The Commissioner, however, has raised and dedicated many pages of briefing to these very same arguments. Doc. 13 at 7–8, 16–17; Doc. 20 at 8–9; 11–15, 25–31; Doc. 25 at ¶¶1, 4, 6. The Alliance offers nothing new on these allegations. It is unnecessary and inappropriate to burden MAHP with responding to these recycled arguments or requiring the Court to review and consider this repetitive briefing.

The Alliance further relies on a memorandum from State Health Officer, Dr. Daniel P. Edney, Doc. 24-1 at 11, 49–50, and as discussed above, billing guidelines promulgated by Arkansas BlueCross BlueShield, *id*. at 8, 34–40. The Alliance offers nothing that has not already been said by the Commissioner in his discussions of these very same documents. Doc. 20 at 3, 20, 23 n.8; Doc. 25 at ¶8.

D. The Alliance is not suitable as *amici* because its members have a substantial, financial interest in this case.

"The term '*amicus curiae*' means friend of the court, not friend of a party." *Mineta*, 2005 WL 8169395, at *1–2. The Alliance's members stand to gain a financial windfall under House Bill 1489 through, among other ways, the right to *unlimited* reimbursement for out-of-network ambulance services, which the Alliance contends represents "79% of all ground ambulance transports." Doc. 24-1 at 44. With so much of its members' revenue on the line, the Alliance—

even if the information it seeks to provide was relevant or had not already been adequately briefed—cannot be objective in this matter.

III. CONCLUSION

The Alliance's proposed *amicus curiae* brief will not aid the Court in deciding whether to issue a preliminary injunction in furtherance of MAHP's claims that the Coverage Mandate is unconstitutionally vague and the Reimbursement Mandate violates the Contract Clause. Aside from the risk that Alliance's participation may unnecessarily jeopardize the timing of the court's ruling on preliminary injunction, the parties "have more than adequately briefed the issues before the Court, . . . [the Alliance] has not articulated a special interest in some other case that may be affected by this Court's determinations in the case *sub judice*, and all parties have not consented to [the Alliance's] filing of an *amicus* brief. *See Hughes v. White*, 388 F. Supp. 2d 805, 817 (S.D. Ohio 2005). Accordingly, the Alliance's "*amicus* brief is not necessary to the Court's consideration and determination of the issues before it." *Id*. Moreover, the proposed brief consists substantially of information and arguments that are irrelevant to the claims in this case because they do not attempt to explain the meaning of the Coverage Mandate or refute MAHP's allegations and evidence that the Reimbursement Mandate substantially impairs existing contracts.

For all of these reasons, the Alliance's Motion to File *Amicus* Brief should be denied.

Dated: August 28, 2024.

Respectfully Submitted,

MISSISSIPPI ASSOCIATION OF HEALTH PLANS, INC

By: */s/ James A. McCullough, II*
James A. McCullough, II
One of Its Attorneys

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CERTIFICATE OF SERVICE

I hereby certify that on this day, a true and accurate copy of the foregoing was electronically transmitted to the Clerk of the Court using the ECF System for filing, which delivered notice of same to all counsel of record.

Dated: August 28, 2024.

/s/ James A. McCullough, II
James A. McCullough, II