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

MISSISSIPPI ASSOCIATION OF HEALTH PLANS, INC. PLAINTIFF

VS. Civil Action No. 3:24-cv-379-HTW-LGI

MIKE CHANEY, IN HIS OFFICIAL CAPACITY AS COMMISSIONER OF INSURANCE OF MISSISSIPPI DEFENDANT

MEMORANDUM OF AUTHORITIES IN SUPPORT OF COMMISSIONER CHANEY'S RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION

SUMMARY

This Court should deny the Mississippi Association of Health Plans, Inc.'s ("MAHP") motion for preliminary injunction [Dkt. 9] that seeks to halt important provisions of 2024 Miss. House Bill 1489 ("H.B. 1489") that require health insurance carriers to provide—prospectively—coverage for certain responses by ambulance providers and mandates a reimbursement formula.

For decades, using their one-sided bargaining power, insurance companies have avoided paying Mississippi's ambulance service providers for responding to calls and providing treatment on-site. This has placed a tremendous strain on the ambulance EMS services that must be available 24/7 and utilize specially equipped vehicles and trained personnel to provide initial assessment and treatment, often lifesaving, to Mississippians. Section 1 of the challenged law, the "coverage mandate," addresses this practice by requiring insurance companies cover an enrollee's

"treatment in place." Similarly, the coverage mandate relieves the systemic burden of overcrowded hospital emergency departments, empowering ambulance service providers to transport patients to a set of lower-acuity facilities, defined in the statute as "alternative destinations."

Section 2, the "reimbursement mandate," requires health insurance companies pay a certain rate for out-of-network ambulance providers. The reimbursement mandate serves an important purpose – to compensate ambulance services as medical rather than basic transportation providers.[1] Yet despite the unanimous votes for H.B. 1489 and the important public purpose it serves, MAHP declares the law is unconstitutional, under the Contract Clause and the Fourteenth Amendment's Due Process Clause, and now belatedly seeks immediate relief on that basis. Notwithstanding MAHP's arguments—broad avowals premised on throwing everything at the wall just to see what sticks, MAHP's claims fail on the merits and all remaining preliminary injunction requirements.

Assuming MAHP even has standing to sue, and Commissioner Chaney has standing to be sued, and that the matter is ripe—MAHP cannot be granted a preliminary injunction because both of its purported claims fail on the merits. Its principal claim that the reimbursement mandate violates the Contract Clause is unsupported by any meaningful evidence that would show a substantial or severe impact to those contracts between health insurance providers and their insureds that

[1] See https://magnoliatribune.com/2021/11/09/cole-perfect-storm-strains-ambulance-providers/ (last visited August 13, 2024) (noting that a "[l]ack of insurance reimbursements have long crippled the [ambulance] industry."

were in place before July 1, 2024. MAHP's supporting declarations contain no specific examples of how H.B. 1489 will cause them an increase in costs, only referencing proprietary formulas and line-item increases. Similarly, there is no legal or factual support for its claim that the coverage mandate, only applicable to future contracts between the health providers and their insureds, is unconstitutionally vague. The language in the coverage mandate aligns with existing industry usage, and is nearly identical to statutes from other states, including Arkansas and West Virginia, neither of which has been challenged for being vague. (See Ex. "A," Arkansas Act 480 (H.B. 1261); See also Ex. "B," W. Va. Code Ann. § 16-4C-3 (West).

In sum, MAHP cannot show a likelihood of success on its claims under the Contract Clause or the Due Process Clause of the Fourteenth Amendment. The Court's inquiry should end there, and MAHP's motion should be denied on that basis alone.

MAHP also flunks all remaining preliminary injunction factors. MAHP has not shown irreparable harm. Any alleged predicament is wholly manufactured by MAHP's members' delay in amending their policies/rates and delay in filing this action until after the bill was signed into law on May 2, 2024, and took effect on July 1, 2024. In failing to seek injunctive relief for over two months after the H.B. 1489's enactment, MAHP's actions confirm that there is neither an emergency nor threat posed by the statute. That alone should defeat any finding of irreparable harm.

The thrust of MAHP's complaint and preliminary injunction motion is money and the profitability of its health carrier members. Yet MAHP has presented no

evidence of increased costs or other financial harms that its members will allegedly incur because of H.B. 1489. The original evidence offered in support of its claims is a declaration from the lobbyist/CEO of MAHP that contains merely a conclusory statement that H.B. 1489 "will impair the constitutional rights of some or all of its members and subject them to irreparable harm . . . ." Dkt. 9-1 at p. 2. On August 1, MAHP provided and filed with this Court two additional declarations. See Dkts. 17-1 and 17-2. The Declaration of Bryan Lagg (a "Senior Vice President, Strategic Partnerships" for BCBSMS) and the Declaration of Aaron Sisk (CEO of Magnolia Health Plan, a subsidiary of Centene), both fail to establish actual harm. Id. at "Lagg Declaration" and "Sisk Declaration." Even if harm is proven, the fact that a few health insurance carriers might suffer some minor economic disadvantage is neither imminent nor irreparable.

If MAHP had established a viable claim here—and it has not—it still would not carry its burden on the separate, distinct injunctive factors of irreparable harm, the equities, and the public interest. Each are separate requirements for preliminary injunctive relief, and MAHP has not satisfied them. Blocking the legislative relief provided by H.B. 1489 will mean that ambulance providers, counties and health plan enrollees will continue to suffer while MAHP members continue to claim sizable profits. That has a real-world impact on patient care in this State—the lack of ambulances results in longer response times[2] and the system now in place—one that

[2] See https://mississippitoday.org/2024/06/07/new-state-law-allows-backup-ambulance-response-in-critical-times/ (last visited August 13, 2024) (Discussing 2023 Hinds County and

incentivizes ambulance providers to transport patients to emergency rooms and remain with the patients until admitted, rather than treat in place or transport to a lower-acuity facility—results in longer wait times in the emergency room and fewer available ambulances. See Declaration of Dr. Daniel P. Edney, Mississippi's State Health Officer, attached as Exhibit "C."

Because the health insurance companies have refused to cover common-sense services for many years, the Mississippi legislature drafted H.B. 1489 that was unanimously adopted in the 2024 session. Id. at 12. Clearly displeased with the law, it is humorous that now the health insurance carriers seek relief from this Court based on vagueness. Rarely do these carriers pay any invoice without first negotiating down the amount, and yet now they claim that H.B. 1489 forces them to pay carte blanche an ambulance bill no matter how commercially unreasonable it may be. That they have adapted to similar laws in our sister states without seeking court intervention is very telling. A preliminary injunction would only elevate MAHP's members' interests—at the continuing expense of mobile EMS providers and of Mississippians while this litigation is pending. That cannot be in the public interest. See Ex. "C," Edney Declaration at ¶12.

For these reasons and those set forth here, MAHP fails to make the requisite showing for a preliminary injunction, and its motion should be denied.

Jackson, MS ambulance response time delays, litigation, and legislative relief also passed in the 2024 session.)

BACKGROUND

Factual Background. This case arises out of the Mississippi Legislature's enactment, during the 2024 legislative session, of the "Triage, Treat and Transport to Alternative Destination Act," 2024 Miss. H.B. 1489. H.B. 1489 which took effect July 1, 2024, represents a legislative effort to protect not only its citizens, who all rely on EMS assessment, treatment and often transportation, but also certain of the state's subdivisions (counties and municipalities that operate their own ambulance services) as well as private ambulance services. Under the former model, ambulances providers were not paid for treatment in place. See Exhibit "C," Edney Declaration at ¶¶6-8. Instead, they were only paid for transporting patients to hospital emergency departments. H.B. 1489's mandated prospective coverage is known as the "coverage mandate" and contained in Section 1. Additionally, non-network ambulance providers were not paid by the insurance providers and, in those limited cases where they were paid, the payments were limited to an "allowable amount." These allowable amounts are unilaterally determined by the health insurance providers based on "confidential and proprietary commercial information." See Dkt. 17-2 at p. 3. These amounts are not part of the insurance policies and, for all purposes, are non-negotiable. Likewise, the out-of-network ambulance providers, being under no contract, have no say in the allowable amounts determined by the insurance companies. The reimbursement mandate gives ambulance providers an expectation of reasonable payment.

Procedural Background. On June 28, 2024, MAHP filed a Complaint against Mississippi Insurance Commissioner Mike Chaney ("Commissioner

Chaney"), in his official capacity, alleging that H.B. 1489 violates the Contract Clause and the Fourteenth Amendment Due Process Clause of the United States Constitution. Dkt. 1. MAHP asserts two claims: (1) H.B. 1489's Section 2 reimbursement mandate violates the Contract Clause because it interferes with health benefit plans and insurance contracts already in existence on July 1, 2024, that contained out of network allowables different from those mandated by the statute; and, (2) H.B. 1489's Section 1 coverage mandate is void for vagueness. Dkt. 1 at ¶9a.-b. MAHP seeks declaratory and now, immediate injunctive relief—namely (1) a declaration that H.B. 1489 is unconstitutional; and, (2) preliminary and permanent injunctive relief enjoining Commissioner Chaney from acting to enforce the law. Id. at 17.

H.B. 1489 was signed by Governor Reeves on May 2, 2024. MAHP nevertheless waited and filed its complaint on June 28, 2024, just three days before H.B. 1489 went into effect. Commissioner Chaney responded to MAHP's complaint on July 22, 2024, by moving to dismiss, challenging both this court's jurisdiction under Fed. R. Civ. P. 12(b)(1) and the merits under Fed. R. Civ. P. 12(b)(6). Dkt. 7 & 8. MAHP then filed its separate motion for preliminary injunctive relief twenty days after filing its complaint and seventy-seven days after the Governor signed H.B. 1489.

On August 1, MAHP supplemented its P.I. Motion and provided the Court with two additional declarations. Dkt. 17. The parties requested more time to respond, agreeing to an August 15 deadline for this Response. See Dkt. 16 joint motion; see

also Dkt. at Text Order dated August 6, 2024. Commissioner Chaney timely files the instant response in opposition to MAHP's preliminary injunction motion.

STANDARD FOR INJUNCTIVE RELIEF

To justify the extraordinary relief of a preliminary injunction, Plaintiff must show: (1) a substantial likelihood of success on the merits; (2) substantial threat of an irreparable injury without the relief; (3) threatened injury that outweighs the potential harm to the party enjoined; and (4) that granting the preliminary relief will not disserve the public interest. Texas Med. Providers Performing Abortion Servs. v. Lakey, 667 F.3d 570, 574 (5th Cir. 2012).

Preliminary injunctive relief is an unusual and drastic remedy and should "only be granted if the movant has clearly carried the burden of persuasion on all four . . . prerequisites." Mississippi Power & Light Co. v. United Gas Pipe Line Co., 760 F.2d 618, 621 (5th Cir. 1985) (emphasis supplied). The decision to grant a preliminary injunction is the "exception rather than the rule." Id. at 620. Plaintiff here fails to meet this extraordinarily high burden and the motion should be denied.

ARGUMENT

I. MAHP'S MOTION SHOULD BE DENIED BECAUSE MAHP LACKS STANDING TO OBTAIN A PRELIMINARY INJUNCTION AND THE CASE IS NOT RIPE FOR ADJUDICATION.

To avoid redundancy, Commissioner Chaney adopts and incorporates by reference the legal and factual arguments in the Memorandum of Authorities in Support of Defendant Mike Chaney's Motion to Dismiss. See Dkt. 13. MAHP has failed to provide facts that would show its claims are ripe; that it has standing to sue; that

Commissioner Chaney has standing to be sued; and, that Commissioner Chaney is not immune under the Eleventh Amendment to the United States Constitution.

II. THE COURT SHOULD DENY MAHP'S MOTION FOR PRELIMINARY INJUNCTION BECAUSE ALL OF THE GOVERNING FACTORS WEIGH AGAINST GRANTING PRELIMINARY INJUNCTIVE RELIEF.

A. MAHP has failed to establish a substantial likelihood of success on the merits.

1. MAHP cannot establish a substantial likelihood of success on its Contract Clause claim.

To determine when a state law violates the Contract Clause, the United States Supreme Court has long applied a two-step test. First, the Court asks whether the state law operates "as a substantial impairment of a contractual relationship." In answering that question, the Court has considered the extent to which the law undermines the contractual bargain, interferes with a party's reasonable expectations, and prevents the party from safeguarding or reinstating his rights. See Texaco, Inc. v. Short, 454 U.S. 516, 531, 102 S. Ct. 781, 70 L. Ed. 2d 738 (1982). Second, the court asks whether the state law is drawn in an "appropriate" and "reasonable" way to advance "a significant and legitimate public purpose." Energy Rsrvs. Grp., Inc. v. Kansas Power & Light Co., 459 U.S. 400, 411–412, 103 S. Ct. 697, 74 L. Ed. 2d 569 (1983).

a. MAHP's complaint fails to show that the reimbursement mandate has caused a substantial impairment to its members' contracts.

A minimal alteration of contractual obligations should end the inquiry at its first stage. Conversely, severe contractual impairments will push the inquiry past the first step and into the examination of the nature and purpose of the state legislation.

Allied Structural Steel Co. v. Spannaus, 438 U.S. 234, 245, 98 S. Ct. 2716, 57 L. Ed. 2d 727 (1978). Parties from heavily regulated industries, such as insurance, are considered to have less reasonable expectations that legislation will not alter their contractual arrangements. See Energy Reserves Group, Inc., 459 U.S. at 411. This is because substantive legislative mandates and agency regulations are commonplace in the insurance industry.

As a legislative act that "adjust[s] the burdens and benefits of economic life," H.B. 1489 is entitled to a "presumption of constitutionality." Concrete Pipe & Prod. of California, Inc. v. Constr. Laborers Pension Tr. for S. Calif ornia, 508 U.S. 602, 637, 113 S. Ct. 2264, 124 L. Ed. 2d 539 (1993) (quoting Usery v. Turner Elkhorn Mining Co., 428 U.S. 1, 15, 96 S. Ct. 2882, 49 L. Ed. 2d 752 (1976)). To overcome that presumption, MAHP ultimately bears the burden of proving "that the legislature has acted in an arbitrary and irrational way." Id. Furthermore, challenges to economic legislation are subject to a "deferential standard of review" and "there is no need for mathematical precision in the fit between justification and means." Id. at Concrete Pipe and Products of California, Inc., 508 U.S. 602.

MAHP asserts two arguments for why Section 2 reimbursement mandate violates the Contract Clause. First, MAHP contends that the reimbursement mandate substantially affects the insurance policies that were in place before July 1, 2024, to the extent the mandate increases the "allowable amounts" that the insurance companies pay for ambulance services. Dkt. 1 at ¶26. Second, MAHP contends that the reimbursement mandate constricts its ability to negotiate with ambulance

companies for in-network provider agreements because the bill allegedly "incentivizes ambulance companies to terminate existing network provider agreements with insurers" given that they might make more money out-of-network. Dkt. 1 at ¶28.

MAHP's claims are nebulous, uncorroborated and unripe. Courts look to terms of the contract to determine the parties' reasonable expectations, including whether the risk of a change in the law was contemplated at the time of contracting. Energy Reserves Group, Inc., 459 U.S. at 414–16. Yet MAHP has not provided a single contract in this case – neither a health insurance policy nor an in-network agreement with an ambulance company. Without a single contract, there is no basis for this Court to conclude that health insurance policies or plans are substantially affected by H.B. 1489.

Substantial impairments are those that "go to the heart of the contract, that affect [the] terms upon which the parties have reasonably relied, or significantly alter the duties of the parties." See Donohue v. Paterson, 715 F. Supp. 2d 306, 318 (N.D.N.Y. 2010) (citing Allied Structural Steel Co., 438 U.S. at 245). MAHP's members issue health insurance policies, covering a myriad of medical conditions and treatments, with ambulance coverage being just a small fraction of any given policy/plan. MAHP's fails to provide anything more than superficial illustrations of imagined future injuries. As it is, the parties' duties have not been significantly altered as the purpose of any health plan policy is to provide medical coverage in exchange for a premium. H.B. 1489 does not alter these duties. Unless the "central

undertaking" of the contract is substantially impaired by state law, then there is no violation of the Contract Clause. See City of El Paso v. Simmons, 379 U.S. 497, 514, 85 S. Ct. 577, 586, 13 L. Ed. 2d 446 (1965). Here, H.B. 1489 does not change the central undertaking of MAHP members' health plans.

Neither MAHP's complaint nor its preliminary injunction motion have identified, and cannot identify, any concrete, substantial impairment caused by the reimbursement mandate in H.B. 1489. MAHP relies on two similar declarations to support their claims. In one declaration, Mr. Bryan Lagg states:

> I have reviewed claims data for ambulance service claims filed by out of network ambulance providers for dates of service in the first six months of 2024. During that time period, more than 4,600 lines of claims were filed by ambulance service providers with billed charges totaling nearly [] $6.3 Million. Over this timeframe, the average billed charges received per CPT code differ from the Medicare rate by a range of 297.61% to a high of 496.33% . . . .
>
> For out of network ambulance claims filed between July 1, 2024 and July 22, 2024, average billed charges received per CPT code different from the Medicare rate by a range of $238.76% to a high of 654.99% . . . .

Dkt. 17-1 at pp. 14-15.

Lagg's statement shows that during the first six and one-half months of 2024, ambulance providers submitted invoices that track the reimbursement mandate. The floor for an ambulance is 325% of the Medicare rate and some, if not most, of the bills fell below that rate. Without the actual bills, however, Lagg's claims are meaningless. Lagg does not identify the type of ambulance services that go into his calculations, the full amount charged by the ambulance providers and, importantly, does not identify the amount paid (if any) by BCBSMS on each bill. Nor does Lagg identify

what type of treatment was provided by the ambulance providers. For instance, if the patients were treated in place or transported to the hospital. Instead, Lagg comes up with his percentages by isolating a line or two in an unidentified number of invoices to show that some of the "CPT codes" used by some ambulance services may exceed the Medicare rate. Lagg even undermines his own analysis by stating that "[w]ithout knowing the specific ambulance services required to be covered by House Bill 1489, it is difficult to identify which CMS reimbursement rates may be applicable to the calculation called for in Section 2 [reimbursement mandate]." Dkt. 17-1 at p. 16. Respectfully, Lagg's declaration does not offer any support of MAHP's Contract Clause claim. The same is true for the Sisk declaration that suffers from the same flaws as Lagg's.

MAHP's Contract Clause argument is premised on an illogical interpretation of the reimbursement mandate. MAHP's entire argument is that the reimbursement formula violates the Contract Clause because non-network ambulance service can now collect "unlimited" amounts of funds, based on the usage of the term "greater of." This is completely misguided and absurd. It assumes that the commercial reasonableness standard does not exist. It assumes that one of its members would just roll over and pay an inflated invoice from an ambulance company simply because the reimbursement mandate has finally forced the insurance companies to move up from their previous low to no reimbursement policies. By their reckoning, this law will force them to pay (for example) $20,000.00[3] for an ambulance ride to the hospital.

[3] MAHP has failed to provide one commercially unreasonable bill that has been submitted to any of its members since H.B. 1489 went into effect. See https://www.wlbt.com/2024/07/12/health-

That interpretation is patently unreasonable and, most importantly, it has not happened. Commercial reasonableness and good faith must be read into every ambulance invoice and neither the reimbursement mandate, nor any reasonable interpretation thereof, would foreclose on the insurance carrier and the service provider coming to an agreement to compromise a (however unlikely) commercial dispute over the amount of reimbursement. Moreover, if the health insurance companies want to avoid any alleged uncertainty, they could easily do so by simply agreeing to a reasonable amount with the ambulance companies, or put another way, they could be brought "in-network" such that there is no question as to the level of reimbursement. But as is readily apparent by their positions here, the insurance carriers would much rather pay next to nothing for ambulance services. Their own obstinance and refusal to move off this antiquated view the ambulance services should be treated (and paid) as a transportation service, rather than a health care service, is the reason the Mississippi Legislature finally, after many years of half-measures, forced the carriers' hands.

Neither MAHP's complaint nor its preliminary injunction motion have identified, and cannot identify, any concrete, substantial impairment caused by the

insurance-advocacy-group-seeks-block-ambulance-reimbursement-bill/ (last visited August 13, 2024) ("EMS providers in the state charge between $988 and $1,224.82 for a basic life support emergency response in urban areas. Medicare reimburses those companies just $398.56.") As for MAHP's members, no data has been provided regarding the reimbursement rates, claiming that such information, including allowable amounts under their plans, are proprietary and confidential. See Dkt. 17-2 at ¶4, Sisk Declaration.

reimbursement mandate in H.B. 1489. Its claims are speculative and identify at most possible future injuries that may never come to pass.

b. Even if the reimbursement mandate results in substantial impairment, MAHP has failed to demonstrate that the mandate is contrary to the public interest.

Assuming this Court finds a substantial impairment from H.B.1489, it must still consider whether there is a "significant and legitimate public purpose behind the regulation." Energy Reserves Group, Inc., 459 U.S. at 411 (citation omitted). Generally, remedying a broad and general social or economic problem will constitute a significant and legitimate public purpose, but providing a benefit to a narrow group of people will not. See Allied Structural Steel Co., 438 U.S. at 247, 249; see also Lipscomb v. Columbus Mun. Separate Sch. Dist., 269 F.3d 494, 504–05 (5th Cir. 2001). This requirement helps ensure "that the State is exercising its police power, rather than providing a benefit to special interests." Energy Reserves Group, Inc., 459 U.S. at 412. If there is a significant and legitimate public purpose behind the regulation, "the next inquiry is whether the adjustment of 'the rights and responsibilities of contracting parties [is based] upon reasonable conditions and [is] of a character appropriate to the public purpose justifying [the legislation's] adoption.'" Id.

Where, as here, the state is not a contracting party, "[a]s is customary in reviewing economic and social regulation [,] ... courts properly defer to legislative judgment as to the necessity and reasonableness of a particular measure." Energy Reserves Group, Inc., 459 U.S. at 412–13. MAHP thus bears the burden of showing that the law does not serve a valid public purpose or that it is unreasonable. See

Apartment Ass'n of Los Angeles Cnty., Inc. v. City of Los Angeles, 10 F.4th 905, 913 (9th Cir. 2021).

Neither MAHP's complaint nor its preliminary injunction motion meet this burden. Instead, MAHP vaguely alleges that the bill is nothing more than "special interest favoritism." See Dkt. 1 at ¶29. MAHP's unsupported alarmism ignores the legislative history accompanying H.B. 1489, and the Court may take notice that the bill was passed in support of Mississippi consumers, as well as the ambulance providers[4] who have been performing services, often on-site life-saving treatments, without compensation from the insurance companies. See Mississippi College Law School Legislative History Project; H.B. 1489, 2024 Sess. (Miss. 2024) at https://s3.amazonaws.com/legislative/H.B.1489_03132024.mp4 (last visited July 12, 2024). See id; H.B. 1629[5], 2024 Sess. (Miss. 2024) at https://s3.amazonaws.com/legislative/H.B.1629_03132024.mp4 (last visited July 17, 2024) (floor statements indicating that the reimbursement mandate was drafted to address an EMS crisis where, because of low/non-payments from insurance companies, ambulance providers have been unable to retain enough medics and ambulances, often resulting in the counties supplementing the costs).

Further, the State Health Officer of Mississippi provides in his declaration the very real public health interests that are supported by H.B. 1489. The prior existing

[4] Some counties in Mississippi are actually "ambulance providers" that are similarly burdened by the uncompensated services H.B. 1489 seeks to alleviate. Hence, the public, the private ambulance services, and public ambulance services all benefit.

[5] H.B. 1629 introduced the reimbursement mandate before it was joined into H.B. 1489.

model of reimbursement is "not sustainable." Ex. "C," Edney Declaration attachment at p. 2 -¶1. That model "negatively impact[s] our system of care services by reimbursing as a transportation service." Id. According to Dr. Edney: 'it is critical that ambulance service providers are compensated by private health insurance carriers in Mississippi as healthcare providers, instead of treating ambulances simply as transportation. Id. at ¶ 5. H.B. 1489—as enacted—appears to further the critical state-interest in assuring access and availability of EMS." Id. at ¶12. Without question, MAHP fails to show there is no public interest supported by the challenged legislation.

2. MAHP cannot establish a substantial likelihood of success on its vagueness claim.

As its second claim, MAHP argues that the new Mississippi Law is "unconstitutionally vague" because it does not clarify what constitutes "alternative destination," "encounter," or "911 Call." Dkt. 10 at pp. 16-20. MAHP asserts that compliance with Section 1 of H.B. 1489 is impossible given that its terms are "so vague and indefinite as really to be no rule or standard at all, and many of its terms are substantially incomprehensible." Dkt. 1 at ¶33. In support of its preliminary injunction motion, MAHP offers two nearly identical declarations regarding its void for vagueness argument. See Dkt. 17-1 at ¶¶20-27, Dkt. 17-2 at ¶¶18-25. For the reasons below, MAHP's vagueness claim is not likely to succeed.

In evaluating vagueness, a court should consider (1) whether the law "[g]ives the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly"; and (2) "whether the law provides explicit

standards for those applying them to avoid arbitrary and discriminatory applications." Roark & Hardee LP v. City of Austin, 522 F.3d 533, 551 (5th Cir. 2008) (internal quotation marks omitted)). "[T]o be unconstitutionally vague, a statute must be impermissibly vague in all its applications, including its application to the party bringing the vagueness challenge." United States v. Rafoi, 60 F.4th 982, 996 (5th Cir. 2023) (internal quotation marks omitted). "[T]he mere fact that close cases can be envisioned" does not "render[ ] a statute vague," see United States v. Williams, 553 U.S. 285, 305, 128 S. Ct. 1830, 170 L. Ed. 2d 650 (2008), and the "prohibition against excessive vagueness does not invalidate every statute which a reviewing court believes could have been drafted with greater precision." Rose v. Locke, 423 U.S. 48, 49, 96 S. Ct. 243, 46 L. Ed. 2d 185 (1975). "[P]erfect clarity and precise guidance" are not required. See Doe I v. Landry, 909 F.3d 99, 117 (5th Cir. 2018) (quoting Ward v. Rock Against Racism, 491 U.S. 781, 794, 109 S. Ct. 2746, 105 L. Ed. 2d 661 (1989)). "Condemned to the use of words," legislative bodies "can never [speak with] mathematical certainty." See Grayned v. City of Rockford, 408 U.S. 104, 110, 92 S. Ct. 2294, 33 L. Ed. 2d 222 (1972). "[O]nly a reasonable degree of certainty is required." Roark & Hardee LP, 522 F.3d at 552–53 (internal quotation marks omitted) (emphasis in original).[6]

"The degree of vagueness that the Constitution tolerates—as well as the relative importance of fair notice and fair enforcement— depends in part on the

[6] See also Miss. Code Ann. § 1-3-65 (West) ("All [nontechnical] words and phrases contained in [Mississippi] statutes are used according to their common and ordinary acceptation and meaning.").

nature of the enactment." Vill. of Hoffman Ests. v. Flipside, Hoffman Ests., Inc., 455 U.S. 489, 498, 102 S. Ct. 1186, 1193, 71 L. Ed. 2d 362 (1982) (emphasis added). "[E]conomic regulation is subject to a less strict vagueness test because its subject matter is often more narrow, and because businesses, which face economic demands to plan behavior carefully, can be expected to consult relevant legislation in advance of action." Id. The Supreme Court "has also expressed greater tolerance of enactments with civil rather than criminal penalties because the consequences of imprecision are qualitatively less severe," though "a scienter requirement may mitigate a law's vagueness, especially with respect to the adequacy of notice to the complainant that his conduct is proscribed." Id. at 498–99.

MAHP first claims that Section 1's definition of "alternative destination" renders the bill unconstitutionally vague. Dkt. 10 at p. 16. MAHP argues that the use of "including, without limitation" is seemingly endless in scope to include non-emergency facilities. Dkt. 10 at pp. 16-17.

Section 2(b)(i) states:

> "Alternative destination" means a lower-acuity facility that provides medical services, including, without limitation:
>
> 1. A federally qualified health center;
> 2. An urgent care center;
> 3. A physician's office or medical clinic, as chosen by the patient; and
> 4. A behavioral or mental health care facility, including, without limitation, a crisis stabilization unit and a diversion center.

Section 2(b)(ii):

> "Alternative destination" does not include a:
>
> 1. Critical access hospital;

2. Dialysis center;
3. Hospital;
4. Private residence; or
5. Skilled nursing facility

This definition of "alternative destination" is by no means so vague that a person of ordinary intelligence would fail to understand it. At least two states, Arkansas and West Virginia, have used exactly the same definition for alternative destination without issue or constitutional challenge. See Exhibits "A" and "B." Nor does the "including, without limitation" preceding clause render it vague. If Mississippi lawmakers had intended the specific words to be used in their unrestricted sense, they would have never mentioned the four categories of facilities. See, e.g., Shelby Cnty. State Bank v. Van Diest Supply Co., 303 F.3d 832, 837 (7th Cir. 2002)("[I]t would be bizarre as a commercial matter to claim a lien in everything, and then to describe in detail only a smaller part of that whole.") See also In re Clark, 154 N.H. 420, 910 A.2d 1198 (2006) ("When the legislature uses the phrase 'including, but not limited to' in a statute, the application of that statute is limited to the types of items therein particularized.") In drafting H.B. 1489 the legislature likely intended, permissibly so, to capture whatever inventive interpretations could be imagined by health plan providers to circumvent the statute's class of facilities identified as "alternative destinations." As much can be seen in MAHP's Complaint, claiming that "alternative destinations" could include ambulance transports to dermatologists, pharmacists, chiropractors, and the like. There is simply no justification for MAHP's conjectural brainwork. A statute is not unconstitutionally vague merely because a company or an individual can raise uncertainty about its application to the facts of

their case. A statute is unconstitutionally vague "only where no standard of conduct is outlined at all; when no core of prohibited activity is defined." Margaret S. v. Edwards, 794 F.2d 994, 997 (5th Cir. 1986). No doubt the coverage mandate outlines a clear standard of conduct by requiring MAHP's members to ensure coverage for certain ambulance services provided to its enrollees. That MAHP and its members object to the new requirements does not render those items impermissibly vague.

The definition of "alternative destination" must be read in conjunction with the rest of the bill. When done, MAHP's vagueness claim falters at the gate. In Mississippi, "[t]he primary rule of construction is to ascertain the intent of the legislature from the statute as a whole and from the language used therein." DePriest v. Barber, 798 So. 2d 456, 458 (Miss. 2001) (quotation marks and citation omitted). A statute's "disputed section should be interpreted in light of all other provisions of the Act." State v. Beebe, 687 So. 2d 702, 707 (Miss. 1996)(citing Broadhead v. Monaghan, 238 Miss. 239, 117 So. 2d 881, 886 (1960)(holding that when "construing a statute the court must seek to ascertain the legislative intent from the statute as a whole, and not from a segregated portion, considered apart from the rest of the statute")). Marlow, L.L.C. v. BellSouth Telecommunications, Inc., 686 F.3d 303, 307 (5th Cir. 2012). And when read in its entirety, the law concerns itself with emergency medical care, rather than routine trips to the dermatologist.

For instance, Section 1(4)(a) states that "[t]he coverage required under this section is subjected to the initiation of ambulance service treatment as a result of a 911 call that is documented in the records of the ambulance service." Under Section

1(2)(a) a "'911 call' means a communication made on behalf of an enrollee indicating that the enrollee may need emergency services." When "alternative destination" is read in the context of the rest of the bill, the mandated coverage applies to potential emergency situations, judged by the health plan enrollee to be such that the situation requires ambulance service. This does not mandate coverage for suspicious skin moles, pharmacy refills or chiropractic adjustments. But refusing to pay for mental health transportation to a state regional "crisis stabilization unit" is simply bad public policy, so it is now required. For non-emergency situations, the MSDH already provides free Uber rides for Mississippians.[7]

Next, MAHP claims that H.B. 1489 is unconstitutionally vague in its use of the term "encounter." Dkt. 10 at pp. 17-18. Section 1(3)(b) requires coverage for "[a]n encounter between an ambulance service and enrollee that results without transport of the enrollee." Citing the Merriam-Webster Dictionary, MAHP facetiously claims that "encounter" is generally defined as "to meet as an adversary or enemy; to engage in conflict with; to come upon face-to-face; to come upon unexpectedly." Yet MAHP fails to turn to other sources, more relevant, that use the word encounter – say, for instance, the Mississippi State Department of Health ("MSDH") regulations covering

[7] https://magnoliatribune.com/2024/01/18/mississippi-state-health-officer-shares-latest-data-with-lawmakers/ (last visited August 13, 2024) ("Moving into the 2024 legislative session MSDH is asking lawmakers to take a closer look at emergency or EMS services. Edney said the services are in a fragile state due to a low workforce and reimbursements." . . . "MSDH also offers a Transportation to Health program, which provides rides to Mississippians in need of visiting their local health department for care, the pharmacy and then home. This is done through federal grant funding. While the program is new, Edney said in the last two months roughly 133 rides were given . . . . "Outside of poverty, probably the number one deterrent we struggle with is transportation difficulties," said Dr. Edney.")

ambulance licensure and emergency medical services. See generally 15 Code Miss. R. Pt. 12, Subpt. 31, R. 3.3, Subpt. 31, R. 3.3, Subpt. 31, R. 3.3. There, MSDH uses the term "encounter" many times, all without specifically defining the word or referencing the Merriam-Webster Dictionary. MSDH requires "all licensed ambulance services operating in the State of Mississippi must electronically submit . . . the State of Mississippi Patient Encounter Form . . ." 15 Code Miss. R. Pt. 12, Subpt. 31, R. 3.3, Subpt. 31, R. 3.3, Subpt. 31, R. 3.3 (emphasis added). As MSDH understands the term encounter when used in the context of ambulance and medical services, so should MAHP and its members.[8]

MAHP next challenges the use of the term "911 call" claiming that it could mean something other than picking up the phone and calling 911. H.B. 1489 §1(2)(a) defines "911 call" as "a communication made on behalf of an enrollee indicating that the enrollee may need emergency medical services." According to MAHP, this definition is unconstitutionally vague because it does not define a "911 call" as "a call to a county's or municipality's E-911 services reached by calling '"911."' Dkt. 10 at p. 18. Instead, MAHP concludes that "911 call," as used in the statute, could allow for

[8] MAHP claims that because there is not a CPT code that defines "triage" or "encounter" as used in H.B. 1489, insurance companies cannot make coverage determinations. Dkt. 10 at pp. 17-18. Respectfully, this argument is absurd. Both ambulance companies and insurance companies are bound by the same CPT codes and there is no indication that those codes are affected using the word "encounter." Additionally, BCBS in Arkansas has not had a problem adapting to their treat in place/alternative destination rule. Several days before the similar Arkansas bill went into effect, BCBS of Arkansas circulated a letter for its in-network providers, advising what codes to use for treatment in place and transport to an alternative destination. It strains credulity as to why Arkansas can adapt its codes to account for the new law but BCBSMS, cannot. It should also be noted that in Arkansas, the word "encounter" is used with no objection from BCBS Arkansas. See Correspondence from Arkansas Blue Cross Blue Shield to Nevada County Ambulance Service, attached here as Ex. "D."

an enrollee to call an ambulance service directly. Id. Respectfully, this argument makes no sense, and a person of ordinary intelligence would understand "911 call" to mean just that – calling "911" from a telephone. This argument ignores the use of the word "911 call" in §1(4)(a) that states that the coverage mandate "[i]s subject to the initiation of ambulance service treatment as a result of a 911 call that is documented in the records of the ambulance services." MAHP's attempt to construe "911 call" to mean anything other than a "911 call" is palpably unreasonable.[9]

Finally, MAHP struggles with the definition of "contracts" used in Section 1(6). MAHP claims that the definition of "contracts" is unconstitutionally vague because it is unclear which "contracts" fall within the meaning of the coverage mandate. Dkt. 10 at pp. 18-19. Section 1(6) indicates that "[t]his section shall apply to all contracts described in this section that are entered into or renewed on or after July 1, 2024." (emphasis added). The language could not be clearer – if there is coverage under a health benefit plan, then that plan will contain the coverage mandate, either explicitly or implicitly, so long as it was "entered into or renewed on or after July 1, 2024." Emphasizing the July 1, 2024, date MAHP states, without citing any real-world examples, that it would be impossible to include the coverage mandate in plans that begin on July 1, 2024, because "new terms included in health benefit plans are

[9] In reaching this conclusion MAHP does what it failed to do with the term "encounter" – it turned to the MDHS emergency management service regulations. There MDHS indicates that 911 is the universal emergency phone number for public access of Emergency Medical Services in the State. Ambulance service providers shall only advertise 911 as their emergency number. 15 Code Miss. R. Pt. 12, Subpt. 31, R. 1.1, Subpt. 31, R. 1.1, Subpt. 31, R. 1.1. There is nothing in H.B. 1489 that indicates an intent to deviate from the terminology used in the MDHS regulations.

approved by the Commissioner months before they may be issued." Dkt. 1 at ¶39. MAHP also claims that because health plans are typically issued on a plan year basis, a new enrollee on August 1, 2024 would receive those same benefits as someone who enrolled in the plan on January 1, 2024. Dkt. 10 at p. 19. Again, this is not a vagueness argument at all given the clear and unambiguous terms of the enactment date – July 1, 2024. MAHP's challenge to the application of Section 1's definitive enactment date has no relevance as to its comprehensibility. MAHP's vagueness claim fails and does not support its request for a preliminary injunction.

B. MAHP fails to make the requisite showing of irreparable harm.

To obtain a preliminary injunction, a plaintiff must show that, absent the requested injunctive relief, plaintiff will be subject to a substantial threat of irreparable harm. To meet this burden, a plaintiff must demonstrate the threat of irreparable harm by independent proof, or no injunction may issue. In order to demonstrate irreparable harm, "[s]peculative injury is not sufficient; there must be more than an unfounded fear on the part of the applicant." Holland Am. Ins. Co. v. Succession of Roy, 777 F.2d 992, 997 (5th Cir. 1985). In other words, the threat of injury must not be merely conjectural in order for it to rise to the level of irreparable harm. Further, when a plaintiff will adequately be compensated by monetary damages, a showing of irreparable injury is precluded. DFW Metro Line Servs. v. Sw. Bell Tel. Co., 901 F.2d 1267, 1269 (5th Cir. 1990) (citation omitted).

Any showing of irreparable harm is undercut by MAHP's dilatoriness in pursuing relief. "A party cannot delay and then use an 'emergency' created by its own

decisions concerning timing to support a motion for preliminary injunction." U.S. Bank Nat. Ass'n v. Turquoise Properties Gulf, Inc., No. CIV.A. 10-0204, 2010 WL 2594866, at *4 (S.D. Ala. June 18, 2010) (quoting Max-Planck-Gesellschaft Zur F%20orderung Der Wissenschaften E.V. v. Whitehead Inst. for Biomedical Rsch., 650 F. Supp. 2d 114, 123 (D. Mass. 2009)) (cleaned up, internal quotation marks omitted). See also Minerva Sportswear, Inc. v. Mike Viano Sports, Inc., No. 19-CV-2034, 2019 WL 13116116, at *4 (C.D. Ill. May 17, 2019) ("MAHP manufactured its own emergency by delaying seeking" injunctive relief by not filing motion for preliminary injunction concurrently with complaint); M&T Bank v. SFR Invs. Pool 1, LLC, No. 217CV1867JCMCWH, 2019 WL 3577645, at *3 (D. Nev. Aug. 6, 2019) (party who is dilatory in seeking injunctive relief "create[s] [the] emergency and comes to the court with unclean hands").

Here, Mississippi Governor Tate Reeves signed H.B. 1489 into law on May 2, 2024. Yet MAHP waited fifty-seven days to file its Complaint on June 28, 2024. See generally Dkt. 1. MAHP then waited until July 18, 2024—viz., over three weeks after filing suit and seventy-seven days after H.B. 1489's enactment—to move for preliminary injunction. Dkt. 10. It then delayed another two weeks before submitting its supporting declarations. Dkt. 17.

MAHP's dilatoriness in the face of H.B. 1489's July 1, 2024, effective date has created a manufactured emergency of MAHP's own making. That alone militates against any finding of irreparable harm and "argues strongly against granting a preliminary injunction," in this case.

Substantively, MAHP "must show that it is likely to suffer irreparable harm, that is, harm for which there is no adequate remedy at law," and "[s]peculative injury is not sufficient; there must be more than an unfounded fear on the part of the applicant." Daniels Health Scis., L.L.C. v. Vascular Health Scis., L.L.C., 710 F.3d 579, 585 (5th Cir. 2013) (internal quotation marks omitted). "Issuing a preliminary injunction based only on a possibility of irreparable harm is inconsistent with [the United States Supreme Court's] characterization of injunctive relief as an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 22, 129 S. Ct. 365, 172 L. Ed. 2d 249 (2008) (emphasis added).

Turning now to MAHP's arguments on this factor: First, MAHP asserts that non-compliance with the Mississippi law could result in regulatory examinations and enforcement actions, including penalties, by Commissioner Chaney. See Dkt. 10 at pp. 25-26. Second, MAHP alleges that it will suffer irreparable (economic) harm though the impairment of their existing contracts with insureds. Id. Neither of these "harms" supports a preliminary injunction in this case.

As to regulatory examinations: MAHP has submitted no "evidence" beyond the generalized and conclusory assertions reflected in its motion. MAHP claims that Commissioner Chaney "is empowered to examine and investigate licensees to determine if he believes they are in compliance with state insurance laws, to require the insurer to pay for the costs of the examination, and to impose sanctions on them to enforce state insurance laws." Dkt. 10 at p. 24. As noted elsewhere, that power, if

it exists, has not been exerted, nor has MAHP shown any evidence that it will be. All that MAHP has demonstrated is that it does not intend to comply with the law, as written, and that this could result in some regulatory action. "To be considered irreparable, the injury in question must be imminent and cannot be speculative." Terex Corp. v. Cubex Ltd., No. CIV.A.3:06CV1639-G, 2006 WL 3542706, at *9 (N.D. Tex. Dec. 7, 2006).

As to financial losses: MAHP asserts that by complying with the Mississippi Law, its members will incur financial losses caused by "significantly increased claim reimbursement costs . . . ." Dkt. 10 at p. 23. MAHP does not allege—much less demonstrate—that compliance with the Mississippi Law threatens the very existence of any of its members. "A harm is irreparable where there is no adequate remedy at law, such as monetary damages." Janvey v. Alguire, 647 F.3d 585, 600 (5th Cir. 2011); see also Deerfield Med. Ctr. v. City of Deerfield Beach, 661 F.2d 328, 338 (5th Cir. 1981). Only in narrow circumstances may monetary loss establish irreparable harm, such as "where the loss threatens the very existence of the movant's business." Wisconsin Gas Co. v. FERC, 758 F.2d 669, 674 (D.C. Cir. 1985). While a business injury, such as lost profits, may show irreparable harm, a party must meet a heavy burden showing such injury is "substantial," beyond the realm of everyday losses. Cf. Wages & White Lion Invs., L.L.C. v. United States Food & Drug Admin., 16 F.4th 1130, 1142 (5th Cir. 2021); Texas v. United States Env't Prot. Agency, 829 F.3d 405, 433 (5th Cir. 2016). This is even more true in highly regulated industries that are used to planning for and adopting to legislative

mandates. See Energy Reserves Group, Inc., 459 U.S. at 411. MAHP provides argument, but no meaningful evidence, that its members will be substantially impacted by H.B. 1489's reimbursement mandate. As discussed above, the declarations submitted fail to establish any actual harm. This temporary economic hit, assuming there is one, is at best temporary, and one that can be remedied by MAHP's health insurance members when their policies come up for renewal. [10]

As to insureds: MAHP asserts that by complying with the Mississippi Law, subscribers will incur financial losses because reimbursement rates will equate an increase in the subscriber's out-of-pocket expense. Dkt. 10 at p. 24. MAHP's argument fails because, as it stands now, subscriber's pay for most, and often all, of the ambulance bill when the insurance plan administrator denies claims for ambulance services, particularly where a subscriber is stabilized at the scene rather than transported to the hospital. As such any possible "harm" to an insured is no more than existed prior to H.B. 1489's adoption which, again, corrects what was an inequitable and unsustainable practice. That BCBSMS or Centene are in the best

[10] MAHP cites Rest. L. Ctr. v. United States Dep't of Lab., 66 F.4th 593 (5th Cir. 2023) for the proposition that "nonrecoverable costs of complying with a putatively invalid regulation typically constitute irreparable harm." Dkt. 10 at p. 23. In Restaurant Law Center, the district court denied a preliminary injunction even though "the court assumed plaintiffs were likely to succeed on the merits." Restaurant Law Center, 66 F.4th at 596. The Fifth Circuit Court of Appeals found error in the district court's ruling, noting that "purely economic costs may count is irreparable harm where they cannot be recovered in the ordinary court of litigation." Id. at 597. Here, MAHP has not provided any evidence that support a meritorious claim. And here, MAHP members would be able to recover any costs born during the pendency of this litigation (as they often do) by raising premiums or subjecting their insureds to some other cost sharing mechanism. See In re NTE Connecticut, LLC, 26 F.4th 980, 990– 91 (D.C. Cir. 2022) ("We have recognized that financial injury can be irreparable where no adequate compensatory or other corrective relief will be available at a later date, in the ordinary course of litigation." (cleaned up)).

financial position to weather a small increase in payments in exchange for the continuing public health benefits is evident.

As to MAHP's administrative costs: MAHP claims that it will suffer a significant and costly administrative burden as it struggles to decipher and implement what may be required of them under Section 1's coverage mandate. MAHP does not put a dollar figure on this burden, nor does it describe what those struggles entail. Presumably, MAHP will be required to draft a policy provision incorporating some if not all H.B. 1489's mandates. Respectfully, this is what insurance companies do whenever there is a new law passed. In any heavily regulated industry, like insurance, there are often new laws and regulations passed and insurance companies, including members of MAPH, know and expect such changes, often incorporating provisions in their policies and provider contracts to account for changes in the law, or legislative mandates. See Energy Reserves Group, Inc., 459 U.S. at 411 (less reasonable expectations that legislation will not alter their contractual arrangements). Finally, the State's Health Officer has explained that MAHP's members may likely experience savings, not losses.[11] When the reimbursement mandate is read in conjunction with the coverage mandate, and insured patients are no longer forced to be seen at an ER, there will be no corresponding ER bill that the insurance company must reimburse. Ex. "C," Edney Declaration at ¶¶9-10.

[11] See MAHP member United Healthcare's own reporting on expenses related to unnecessary ER visits. The average emergency department visit costs about $2,700 versus $185 at an urgent care facility. https://www.unitedhealthgroup.com/newsroom/posts/2019-07-22-high-cost-emergency-department-visits.html (last visited August 14, 2024).

For all these reasons, MAHP fails to make the requisite showing of irreparable harm, and its motion for preliminary injunction should be denied.

C. The harm to the State in granting an injunction would far exceed any purported harm to MAHP, and the public interest thus favors denying MAHP's motion.

The balance of the equities and the public interest "merge when the Government is the opposing party." Pacharne v. Dep't of Homeland Sec., 565 F. Supp. 3d 785, 802 (N.D. Miss. 2021) (quoting Nken v. Holder, 556 U.S. 418, 435, 129 S. Ct. 1749, 173 L. Ed. 2d 550 (2009)) (internal quotation marks omitted). "When a statute is enjoined, the State necessarily suffers the irreparable harm of denying the public interest in the enforcement of its laws." Robinson v. Ardoin, 37 F.4th 208, 227 (5th Cir. 2022) (internal quotation marks omitted). See also Texas Democratic Party v. Abbott, 961 F.3d 389, 411 (5th Cir. 2020) ("[A]ny time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury.") (internal quotation marks omitted). Even "the fact that compliance costs may be irreparable does not mean those costs automatically outweigh the harm that the requested injunctive relief would pose to the government or the public." Rest. L. Ctr. v. United States Dep't of Lab., No. 1:21-CV-1106-RP, 2023 WL 4375518, at *14 (W.D. Tex. July 6, 2023).

Mississippi's EMS services are unsustainable under the former reimbursement model where ambulance providers are required to respond to 911 calls 24/7 yet health insurance companies are under no obligation to pay for these services. Exhibit "C," Edney Declaration at ¶12. This has resulted in a dangerously

thin EMS workforce and ambulance availability[12], particularly in rural areas where access to hospitals or primary care facilities is limited. Id. at handout. A small workforce equates to longer response times, often with deadly consequences for those suffering from heart attacks, strokes, traumatic injuries, or respiratory distress. Id. at handout and ¶ 8. MAHP has not shown that maintaining the astronomical profits of its member health insurance companies outweighs the continued harm to and viability of EMS providers and enrollees if enforcement of H.B. 1489 is enjoined. On the contrary, the state's public health and the viability of EMS services throughout the state are being furthered by H.B. 1489. Any supposed harm in the form increased payments by a health carrier should rightly be borne by the carriers, as this what the legislature unanimously agreed. A small increase in economic disadvantage to health insurance carriers simply does not tip the scale in favor of MAHP, when the public health system and EMS are being placed at risk by the former reimbursement models. Upon any reasonable consideration of the relative equities, MAHP's claim that a preliminary injunction would serve the public interest rings hollow.

CONCLUSION

For all these reasons, the Court should deny MAHP's motion for preliminary injunction [Dkt. 9] in its entirety.

THIS the 15th day of August, 2024.

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[12] See https://mississippitoday.org/2023/09/20/mississippi-ambulance-providers-anticipate-service-crisis/ ; https://www.starherald.net/news-kosciusko-kosciusko-front-page-slideshow-attala-county/ambulance-contract-options-under-review (last visited August 13, 2024).

Respectfully submitted,

MIKE CHANEY, in his official capacity as Commissioner of Insurance of Mississippi, DEFENDANT

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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I have electronically filed the foregoing with the Clerk of the Court using the ECF system, which shall provide notice thereof to all counsel of record.

This the 15th day of August, 2024.

/ s/ James H. Hall