No. 25-1829

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

THE FAMILY PLANNING ASSOCIATION OF MAINE, d/b/a MAINE FAMILY PLANNING,

Plaintiff-Appellant,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; ROBERT F. KENNEDY, JR., in the official capacity as Secretary of Health & Human Services; MEHMET OZ, in the official capacity as the Administrator of the Centers for Medicare & Medicaid Services; CENTERS FOR MEDICARE & MEDICAID SERVICES,

Defendants-Appellees.

On Appeal from the United States District Court
for the District of Maine

BRIEF FOR APPELLEES

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REASONS WHY ORAL ARGUMENT NEED NOT BE HEARD

Plaintiff appeals the district court's order denying its motion to preliminarily enjoin the government from enforcing an Act of Congress. This Court recently heard argument in a case involving a parallel challenge to the same statutory provision. *See Planned Parenthood Fed'n of Am., Inc. v. Kennedy*, Nos. 25-1698, 25-1755 (1st Cir. argued Nov. 12, 2025). Given that the relevant issues have already been subject to argument, there is no need to hold argument in this case.

STATEMENT OF JURISDICTION

Plaintiff invoked the district court's jurisdiction under 28 U.S.C. § 1331. JA12. The district court denied plaintiff's preliminary-injunction motion on August 25, 2025, A22, and plaintiff timely appealed on August 29, 2025, JA67. This Court has jurisdiction over the appeal under 28 U.S.C. § 1292(a)(1).

STATEMENT OF THE ISSUE

This case involves a request for a preliminary injunction barring the government from enforcing an Act of Congress that established a new limit on federal Medicaid spending. Under Section 71113 of the Reconciliation Act of 2025, federal Medicaid funds cannot be distributed to "prohibited entities." As relevant here, the statute defines that term by reference to whether, as of October 1, 2025, an entity satisfied various conditions, one of which is that the entity performs abortions. Pub. L. No. 119-21, 139 Stat. 72, 300. Plaintiff Maine Family Planning's sole claim is that Section 71113 cannot withstand rational-basis review under the Fifth Amendment's equal-protection component. The district court recognized that the statute readily withstands that "exceedingly deferential" review and accordingly denied plaintiff's preliminary-injunction motion. A5. The question presented is whether the district court abused its discretion in denying the motion.

STATEMENT OF THE CASE

A. Statutory Background

In 1965, Congress passed, and President Johnson signed into law, the Medicaid statute. *See* 42 U.S.C. § 1396 *et seq*. Medicaid is a cooperative federal-state program in which the federal government supplies funding to States to assist them in providing medical assistance to specified categories of low-income individuals. *See Medina v. Planned Parenthood S. Atl.*, 606 U.S. 357, 362-65 (2025). Those federal funds are not distributed to individuals directly. Instead, the States pay healthcare providers (or health plans in managed-care delivery systems) for care furnished to eligible individuals, and then the States seek federal funding from the Department of Health and Human Services to cover a portion of the State's expenditures. *See* 42 U.S.C. §§ 1396a, 1396b.

Since its inception, the Medicaid statute has included numerous restrictions on how taxpayer dollars are spent. *See*, *e.g.*, 42 U.S.C. § 1396b(i) (restricting funding for organ transplants). And Congress has expressly reserved "[t]he right to alter, amend, or repeal" any aspect of the program. *Id.* § 1304. Congress has periodically enacted new legislation to account for changes in the marketplace and to align the Medicaid program with new priorities. For example, every year since 1977, Congress has passed an appropriations provision, commonly known as the Hyde Amendment, that "prohibit[s] . . . the use of any federal funds to reimburse the cost of abortions under the Medicaid program except under certain specified circumstances." *Harris v. McRae*,

448 U.S. 297, 302 (1980) (footnote omitted); *see* Edward C. Liu & Wen W. Shen, Cong. Rsch. Serv., IF12167, *The Hyde Amendment: An Overview* (2022). That funding restriction has been upheld by the Supreme Court. *See Harris*, 448 U.S. at 326.

Congress once again revisited and amended the Medicaid program as part of the Reconciliation Act of 2025, which President Trump signed into law on July 4, 2025. Pub. L. No. 119-21, 139 Stat. 72. Section 71113 of the Act establishes that no federal Medicaid funds "shall be used to make payments to a prohibited entity for items and services furnished during the 1-year period beginning on the date of the enactment of this Act." *Id.* at 300. Congress defined a "prohibited entity" as "an entity, including its affiliates, subsidiaries, successors, and clinics—

> that, as of the first day of the first quarter beginning after the date of enactment of this Act [October 1, 2025]—
>
> is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;
>
> is an essential community provider described in section 156.235 of title 45, Code of Federal Regulations (as in effect on the date of enactment of this Act), that is primarily engaged in family planning services, reproductive health, and related medical care; and
>
> provides for abortions, other than an abortion—
>
> > if the pregnancy is the result of an act of rape or incest; or
> >
> > in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed; and

> for which the total amount of Federal and State expenditures under the Medicaid program under title XIX of the Social Security Act for medical assistance furnished in fiscal year 2023 made directly, or by a covered organization, to the entity or to any affiliates, subsidiaries, successors, or clinics of the entity, or made to the entity or to any affiliates, subsidiaries, successors, or clinics of the entity as part of a nationwide health care provider network, exceeded $800,000."

Id.[1]

B. Prior Proceedings

1. Plaintiff Maine Family Planning operates or supports more than 60 clinics that serve tens of thousands of patients each year. JA13-14. Plaintiff alleges that it falls within Section 71113's prohibited-entity definition but contends that the statute cannot withstand rational-basis review under the Fifth Amendment's equal-protection component. JA25, 30-31. On the same day that plaintiff initiated this suit, it moved for a preliminary injunction. JA4.

2. Following a hearing, the district court denied plaintiff's motion. With respect to the merits, the court explained that under rational-basis review, plaintiff bears the burden of "convincingly negat[ing] any reasonable state of facts that would rationalize the prohibition against its receipt of federal Medicaid funds." A16 (Aug. 25 Order). Applying that standard, the court rejected plaintiff's claim that Section 71113 reflects animus and instead recognized that "the more plausible likelihood" is that the statute embodies "a rational desire to withhold a Medicaid subsidy from the

[1] For the sake of brevity, when this brief uses the term "abortion," it refers to abortions other than those excluded by Section 71113.

primary providers of non-qualifying abortions." A14. On the equities, the court observed that plaintiff's asserted interest in continued access to federal Medicaid reimbursements is not "unassailable in the context of a federal legislative initiative to withdraw one tranche of federal funding." A20. It further observed that because Section 71113 is a product of the democratic process, "[i]t would be a special kind of judicial hubris to declare that the public interest has been undermined by the public." A22.

The district court also denied plaintiff's subsequent motion for an injunction pending appeal. It explained that "[w]ith section 71113 . . . Congress appears to be doing with Medicaid spending what it routinely does in any number of other pieces of legislation, *i.e.*, drawing lines between preferred and disfavored conduct." JA73 (Sep. 8 Order). Because the court found that plaintiff "is not likely to succeed on the merits," it recognized "that an injunction pending appeal is not warranted." JA76.

3. Plaintiff then requested that this Court enter an injunction pending appeal. By the time this Court acted on that motion, the Court had already granted the government's request to stay the preliminary injunctions entered in a case brought by Planned Parenthood that challenged the same statute on the same ground, among others. *See* Stay Order, *Planned Parenthood Fed'n of Am., Inc. v. Kennedy*, Nos. 25-1698, 25-1755 (Sep. 11, 2025). Consistent with that stay ruling, this Court denied plaintiff's motion for an injunction pending appeal. *See* Order (Oct. 16, 2025). The Court explained that plaintiff "claims only that the challenged statutory provision cannot

survive rational basis review." Order 2. "Given the . . . general difficulty of establishing that legislation fails under rational basis," the Court recognized that there is "no basis for issuing an injunction pending appeal." *Id.* The Court further observed that although plaintiff "relies principally on [an Eighth Circuit decision] that saw summary affirmance by the Supreme Court," the Eighth Circuit "relied" on "differ[ent] grounds" than are present here. *Id.* (citing *Planned Parenthood of Minn. v. Minnesota*, 612 F.2d 359 (8th Cir. 1980)).

SUMMARY OF ARGUMENT

Plaintiff Maine Family Planning requests a preliminary injunction barring the government from enforcing an Act of Congress that establishes a new limit on federal Medicaid spending. All three democratically elected parts of the government—both Houses of Congress and the President—concluded that federal Medicaid funds should no longer subsidize certain major abortion providers. Plaintiff's sole claim is that this funding restriction cannot withstand rational-basis review under the Fifth Amendment's equal-protection component. The district court correctly concluded that this claim lacks merit and that plaintiff is therefore not entitled to a preliminary injunction. A unanimous panel of this Court denied plaintiff's request for an injunction pending appeal, and the Court should now affirm the denial of the preliminary-injunction motion.

I. As an initial matter, this Court is already considering a parallel challenge to Section 71113. In that case, Planned Parenthood Federation of America, Inc. and two

of its members (collectively, Planned Parenthood) raise multiple constitutional challenges to the statute, including an equal-protection claim. Although the district court there entered preliminary injunctions, this Court granted the government's motion to stay those injunctions, *see* Stay Order, *Planned Parenthood Fed'n of Am., Inc. v. Kennedy*, Nos. 25-1698, 25-1755 (Sep. 11, 2025), and then denied a motion for reconsideration, *see* Order, *Planned Parenthood*, Nos. 25-1698, 25-1755 (Sep. 18, 2025). Briefing in that case is complete and this Court heard oral argument on November 12, 2025. If the government prevails in *Planned Parenthood*, there will be no basis for a different result here.

II. In any event, the district court properly recognized that Section 71113 readily satisfies rational-basis review. Under that deferential standard, "legislation is presumed to be valid and will be sustained if the classification drawn . . . is rationally related to a legitimate state interest." *González-Droz v. González-Colón*, 660 F.3d 1, 9 (1st Cir. 2011) (alteration in original) (quotation marks omitted). Here, the funding restriction furthers Congress's legitimate interests in ensuring that taxpayer dollars do not subsidize abortions and in declining to support entities engaged in a practice that Congress did not want to fund, directly or indirectly. The elements of the prohibited-entity definition effectuate those objectives by focusing on abortion providers that operate on a large scale and that likely depend on federal Medicaid reimbursements. Plaintiff may disagree with Congress's policy choice of halting federal funding for

such entities, but plaintiff's "convictions are not equal to the task of enjoining congressional will in this arena." A22 (Aug. 25 Order).

Plaintiff's contrary arguments fail to grapple with the rational-basis standard and instead accuse Congress of animus toward Planned Parenthood, a non-party. But the third-party standing doctrine prevents plaintiff from bringing a claim on behalf of a non-party, especially where, as here, that non-party is currently litigating the same claim in a separate suit. Regardless, plaintiff comes nowhere near clearing the high bar for attributing animus to Congress. To the contrary, the legislative history on which plaintiff relies underscores Congress's legitimate objective of reducing federal funding of certain abortion providers—specifically, major providers reliant on federal Medicaid funds. Under the rational-basis standard, the government need not even demonstrate that it is more plausible that Section 71113 was motivated by legitimate concerns; it is enough that there is a conceivable legitimate basis for the law.

III. The equitable factors confirm that plaintiff is not entitled to a preliminary injunction. The Supreme Court has traditionally presumed that "all Acts of Congress . . . 'should remain in effect pending a final decision on the merits by [the Supreme] Court.'" *Turner Broad. Sys., Inc. v. FCC*, 507 U.S. 1301, 1301 (1993) (Rehnquist, C.J., in chambers). That presumption applies with special force in this case, where an injunction would interfere with the elected Branches' resolution of a significant and contested question of public policy by forcing the government to fund an entity that provides abortions—conduct that many Americans find abhorrent or otherwise do

not wish to subsidize. By contrast, plaintiff's asserted harms warrant little if any weight. Plaintiff has no cognizable interest in obtaining federal funds to which it is not legally entitled. This Court should affirm the denial of plaintiff's preliminary injunction motion.

STANDARD OF REVIEW

This Court reviews the district court's denial of a preliminary-injunction motion for abuse of discretion. *OfficeMax, Inc. v. Levesque*, 658 F.3d 94, 97 (1st Cir. 2011). "Within this ambit, findings of fact are reviewed for clear error and issues of law are reviewed *de novo*." *Id.*

ARGUMENT

I. If The Government Prevails In *Planned Parenthood*, The Same Result Is Warranted Here

This Court is already considering a parallel challenge to Section 71113. Planned Parenthood Federation of America, Inc. and two of its members (collectively, Planned Parenthood) brought a suit raising various constitutional challenges to Section 71113, including a claim that the statute cannot survive rational-basis review under the Fifth Amendment's equal-protection component. *See* Compl. at 42, *Planned Parenthood Fed'n of Am., Inc. v. Kennedy*, No. 25-cv-11913 (D. Mass. July 7, 2025). After a district court entered preliminary injunctions barring the statute's enforcement, the government appealed and requested a stay. A unanimous panel of this Court granted that request, explaining that "defendants have met their burden to show their entitlement to a stay

of the preliminary injunctions pending the disposition of the appeals of the same." Stay Order at 2, *Planned Parenthood Fed'n of Am., Inc. v. Kennedy*, Nos. 25-1698, 25-1755 (Sep. 11, 2025). The Court subsequently denied reconsideration of that order but expedited the briefing in the *Planned Parenthood* case. Order, *Planned Parenthood*, Nos. 25-1698, 25-1755 (Sep. 18, 2025). Briefing is complete and the Court heard oral argument on November 12.

If this Court rules for the government in *Planned Parenthood*, there will be no basis for a different result here. The plaintiffs in both cases argue that Section 71113 fails rational-basis review. *Compare* Opening Br. 16-32, *with* Response Brief for Plaintiffs-Appellees at 35-41, *Planned Parenthood*, Nos. 25-1698, 25-1755 (Oct. 13, 2025). And the plaintiffs in both cases advance similar arguments with respect to the equities. *Compare* Opening Br. 33-38, *with* Response Brief for Plaintiffs-Appellees at 51-56, *Planned Parenthood*, Nos. 25-1698, 25-1755 (Oct. 13, 2025).

By contrast, if the government does not prevail in *Planned Parenthood*, that would not mean that plaintiff should prevail in this case. Plaintiff's argument here is narrower than the argument in *Planned Parenthood* in multiple respects. Most obviously, while Planned Parenthood brings claims under the First Amendment and the Bill of Attainder Clause, the plaintiff here only invokes rational-basis review. In addition, as discussed below, plaintiff's claim that Section 71113 reflects animus against Planned Parenthood is foreclosed by the third-party standing doctrine, an obstacle that is not at issue in *Planned Parenthood*. *See infra* pp. 14-15.

II. Plaintiff Has Failed To Demonstrate A Likelihood Of Success On The Merits

Plaintiff's sole claim in this case is that Section 71113 contravenes the Fifth Amendment's equal-protection component. As plaintiff concedes (Opening Br. 17), that claim implicates rational-basis review. Under that standard, "legislation is presumed to be valid and will be sustained if the classification drawn . . . is rationally related to a legitimate state interest." *González-Droz v. González-Colón*, 660 F.3d 1, 9 (1st Cir. 2011) (alteration in original) (quotation marks omitted). It is thus plaintiff's burden to "negate any and all conceivable bases upon which the challenged [law] might appropriately rest." *Id.* This "exceedingly deferential" standard, A5 (Aug. 25 Order), is even more deferential here, where plaintiff's claim implicates Congress's "broad discretion" to control federal spending, *Agency for Int'l Dev. v. Alliance for Open Soc'y Int'l, Inc.* (*AID*), 570 U.S. 205, 213 (2013). The district court correctly recognized that plaintiff has failed to demonstrate a likelihood of success under this standard.

A. Section 71113 readily satisfies rational-basis review. Under Section 71113, federal Medicaid funds cannot be distributed to "prohibited entities," a term defined by reference to whether, as of October 1, 2025, an entity provides elective abortions; "is an organization described in section 501(c)(3) of the Internal Revenue Code"; is an essential community provider primarily engaged in certain functions; and received over $800,000 in federal and state Medicaid funds in 2023. 139 Stat. at 300. "[I]n

combination," these requirements capture entities that "members of Congress might believe" are "major abortion providers in the United States." A6 (Aug. 25 Order).

There are multiple "rational bas[es]" for Congress to halt the flow of federal Medicaid funds to such entities. *FCC v. Beach Commc'ns, Inc.*, 508 U.S. 307, 313 (1993). First, Section 71113 reflects a "rational desire to withhold a Medicaid subsidy" from abortion providers. A14 (Aug. 25 Order). "Money is fungible," and Congress was entitled to conclude that it does not want to contribute to abortion indirectly by allowing prohibited entities to allocate federal funds for other expenditures and use the savings to fund abortions. *Holder v. Humanitarian L. Project*, 561 U.S. 1, 31 (2010). Second, Congress was similarly entitled to conclude that withholding federal Medicaid funds from prohibited entities would reduce the number of abortions. "Abortion presents a profound moral issue on which Americans hold sharply conflicting views." *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 223 (2022). It is therefore well-established that "the government is free to favor the anti-abortion position over the pro-choice position, and can do so with public funds." *Center for Reprod. L. & Pol'y v. Bush*, 304 F.3d 183, 198 (2d Cir. 2002) (citing *Rust v. Sullivan*, 500 U.S. 173, 192-94 (1991)). Third, Congress was also entitled to conclude that, no matter the effect on the number of abortions performed, it did not wish to support abortion providers with federal funds. Each of these rationales provides a sufficient basis for upholding Section 71113.

By focusing on a particular subset of abortion providers, Section 71113 addresses "the phase of the problem which seem[ed] most acute to the legislative mind." *Williamson v. Lee Optical of Okla., Inc.*, 348 U.S. 483, 489 (1955). Taken together, the elements of the prohibited-entity definition identify providers (and their affiliates and subsidiaries) that operate on a large scale, are likely to depend on federal Medicaid funds, and are likely to perform many abortions. That is illustrated by plaintiff's own brief, which emphasizes that it "operates eighteen clinics spanning twelve counties" and that "Medicaid is essential to [plaintiff]." Opening Br. 4-5. Planned Parenthood's filings in this Court similarly emphasize the scale of its operations and its reliance on federal Medicaid funds. *See* Response Brief for Plaintiffs-Appellees at 3, 23, *Planned Parenthood*, Nos. 25-1698, 25-1755 (Oct. 13, 2025). Congress could rationally believe that funding such entities enables the provision of abortions (for example, by allowing the entities to remain open or to expand the number of patients they serve). And Congress could also rationally believe that Section 71113 identifies the entities that are most likely to stop providing abortions in order to maintain their eligibility for federal Medicaid funds.

B. Plaintiff's principal response is to urge that Section 71113 "was motivated by unconstitutional animus" against Planned Parenthood. Opening Br. 17. That argument is not plaintiff's to make and is meritless in any event.

1. As an initial matter, plaintiff lacks third-party standing to advance this argument. Plaintiff does not contend that Section 71113 reflects animus against it.

Instead, it accuses Congress of "animus toward Planned Parenthood." Opening Br. 16. But a party "generally must assert his own legal rights and interests, and cannot rest his claim to relief on the legal rights or interests of third parties." *Warth v. Seldin*, 422 U.S. 490, 499 (1975). Although a limited exception to this rule applies when a party can demonstrate that it has a "close relationship with the person who possesses the right," and that "there is a 'hindrance' to the possessor's ability to protect his own interests," plaintiff makes no attempt to satisfy either requirement. *Kowalski v. Tesmer*, 543 U.S. 125, 130 (2004).

That plaintiff meets neither prerequisite is particularly apparent in the circumstances of this case. As discussed, Planned Parenthood is currently litigating a separate suit challenging Section 71113 on multiple theories, including the theory that the statute cannot withstand rational-basis review. *See Planned Parenthood Fed'n of Am., Inc. v. Kennedy*, Nos. 25-1698, 25-1755 (1st Cir.). There is thus no basis for disregarding the general rule that a plaintiff cannot rest its "claim to relief on the legal rights or interests of third parties." *Warth*, 422 U.S. at 499.

2. In any event, plaintiff's attempt to ascribe "unconstitutional animus" to Congress is meritless. Opening Br. 17. The Supreme Court has cautioned that "[i]nquiries into congressional motives or purposes are a hazardous matter" not to be undertaken lightly. *United States v. O'Brien*, 391 U.S. 367, 383 (1968). Yet plaintiff does not argue that any animus is evident on Section 71113's face. Nor would any such argument be plausible given that the statute defines prohibited entities based on

generally applicable criteria and concededly encompasses entities—including plaintiff itself—that are not members of Planned Parenthood. *See* 139 Stat. at 300.

Instead, plaintiff principally relies (*see* Opening Br. 18-21) on "the least illuminating forms" of evidence. *NLRB v. SW Gen., Inc.*, 580 U.S. 288, 307 (2017). "[F]loor statements by individual legislators" are hardly a reliable guide to the intent of a 535-member body. *Id.* Likewise, bills that were proposed but not enacted in prior years, *see* Opening Br. 19-20 (relying in large part on a 2017 bill), shed little if any light on the statute here, and, if anything, only underscore the different approach that Congress took in Section 71113, *cf. Abbott v. Perez*, 585 U.S. 579, 604-05 (2018) (declining to infer intent based on legislative acts taken two years before).

Regardless, the statements and bills on which plaintiff relies are consistent with Congress's legitimate objective of halting federal subsidies for major abortion providers. For instance, the statement that the legislation offers an "opportunity to stop funding abortion purveyors like Planned Parenthood" uses Planned Parenthood as an example of the sort of entities that will likely be affected but also emphasizes the focus on the conduct that the speaker no longer wished to subsidize. Opening Br. 18 (quoting 171 Cong. Rec. E255 (daily ed. Mar. 27, 2025) (statement of Rep. Christopher H. Smith)). If such statements have any relevance here, it is to highlight Congress's legitimate objective of reducing funding for major abortion providers and to undermine plaintiff's claim that Congress acted out of a "bare . . . desire to harm a politically unpopular group." Opening Br. 14 (quoting *U.S. Dep't of Agric. v. Moreno*,

413 U.S. 528, 534 (1973)). The statements of a few individual legislators would not, in any event, suffice to establish the intent of a 535-member body.

For similar reasons, plaintiffs do not advance their argument by emphasizing (Opening Br. 13-14) that Section 71113 applies to a "subset of abortion providers." As discussed, there are legitimate reasons why Congress focused on the abortion providers that it did. *See supra* pp. 12-14. And, regardless, the Supreme Court has warned that Congress "must be allowed leeway to approach a perceived problem incrementally." *Beach*, 508 U.S. at 316. Given that the Court has rejected underinclusivity arguments "even under strict scrutiny," such arguments plainly have no purchase when rational-basis review applies. *Williams-Yulee v. Florida Bar*, 575 U.S. 433, 449 (2015).

At the very least, plaintiff comes nowhere near demonstrating that Section 71113 is "inexplicable by anything but animus." *Romer v. Evans*, 517 U.S. 620, 632 (1996). Plaintiff appears to believe (Opening Br. 18) that whenever Congress expects that a law will apply to many (or all) members of a particular organization, the law must reflect animus. But as the district court observed, "unconstitutional animus is different than the generalized disfavor members of Congress may harbor based on deeply held views about controversial conduct coupled with a desire to reduce subsidies to or programmatic dependence on the major providers of non-qualifying abortion[s]." JA72 (Sep. 8 Order). "[T]he more plausible likelihood" is that Section 71113 embodies "a rational desire to withhold a Medicaid subsidy from the primary

providers of non-qualifying abortions." A14 (Aug. 25 Order). And as noted, the government need not even demonstrate that it is more plausible that Section 71113 was motivated by legitimate concerns; it is enough under the rational-basis standard that there is a conceivable legitimate basis for the law.

3. The lack of support for plaintiff's position is illustrated by its reliance (Opening Br. 20-22) on the Supreme Court's summary affirmance in *Minnesota v. Planned Parenthood of Minnesota*, 448 U.S. 901 (1980). The Supreme Court has cautioned that "the precedential effect of a summary affirmance can extend no farther than 'the precise issues presented and necessarily decided by those actions.'" *Illinois State Bd. of Elections v. Socialist Workers Party*, 440 U.S. 173, 182-83 (1979). Because this case involves a different statute that reflects different legislative objectives, *Minnesota* has no bearing here.

This Court's order denying plaintiff's motion for an injunction pending appeal recognizes that the Eighth Circuit decision that the Supreme Court summarily affirmed "relied" on "differing grounds" than are present here. Order 2. That case involved a state law withholding certain funding from non-profits that provided abortions. *See Planned Parenthood of Minn. v. Minnesota*, 612 F.2d 359, 360 (8th Cir. 1980). In determining that the statute did not survive rational-basis review, the Eighth Circuit relied on "testimony at trial" and the statute's "legislative record." *Id.* at 361. Based on that evidence, the court of appeals concluded that "Planned Parenthood's unpopularity played a large role in [the statute's] passage." *Id.* The

court of appeals further concluded that the statute could not be justified out of a concern that funds would indirectly subsidize abortions given trial evidence regarding the plaintiff's "accounting procedures" at the time. *Id.* at 362. The Supreme Court affirmed without providing any reasoning. *See Minnesota*, 448 U.S. 901. A summary affirmance of a circuit decision that relied on the particular history of a nearly-50-year-old state law has no relevance to plaintiff's challenge to a recent Act of Congress.[2]

As the district court explained, *Minnesota* is also inapposite given that the "precedential landscape" has changed in multiple respects. A13 (Aug. 25 Order). First, a decade after the summary affirmance in *Minnesota*, the Supreme Court issued a precedential decision recognizing that "the government may 'make a value judgment favoring childbirth over abortion, and . . . implement that judgment by the allocation of public funds.'" *Rust*, 500 U.S. at 192-93. That decision (which is binding outside the confines of the case in which it arose, unlike a summary affirmance) may well have dictated a different result in *Minnesota*. Second, perhaps because Supreme Court precedent at the time treated abortion as a constitutional right, the State of Minnesota did not argue that it simply did not wish to support abortion providers. *See Minnesota*,

[2] Similarly unavailing is plaintiff's cursory reference to an out-of-circuit district court decision. *See* Opening Br. 26 (citing *Planned Parenthood of Cent. N.C. v. Cansler*, 804 F. Supp. 2d 482 (M.D.N.C. 2011)). That case is distinguishable on multiple grounds: it concerned a limit on state funding specifically naming Planned Parenthood, a legislative record reflecting objections to that organization's ideology, and the absence of "any evidence or even contention" as to how the restriction was "rationally related to [the asserted] legislative policy." *Id.* at 497. None of those circumstances are present here.

612 F.2d at 362-63 (summarizing the State's arguments). The Court subsequently determined that the Constitution enshrines "no such right." *Dobbs*, 597 U.S. at 231. Finally, in the decades since the summary affirmance, the Supreme Court has elaborated on the deferential nature of rational-basis review. In particular, the Court has emphasized that—contrary to the approach taken by the Eighth Circuit in *Minnesota*—"a legislative choice is not subject to courtroom fact-finding and may be based on rational speculation unsupported by evidence or empirical data." *Beach*, 508 U.S. at 313-15.

C. Plaintiff's remaining arguments disregard the rational-basis standard. Much of its filing is devoted to discussing each element of the statute's prohibited-entity definition in isolation. *See* Opening Br. 26-31. But as plaintiff appears to acknowledge, the relevant question is whether the funding restriction, when viewed "as a whole," Opening Br. 26, "is rationally related to a legitimate state interest," *González-Droz*, 660 F.3d at 9 (quotation marks omitted). As explained, the elements of the prohibited-entity definition work together to capture abortion providers that operate on a large scale, likely depend on federal Medicaid funds, and likely provide many abortions. *See supra* pp. 12-14. It is natural that in seeking to reduce federal support for abortion providers, Congress would adopt a provision withholding federal Medicaid dollars from such entities.

Plaintiff's discussion of individual elements of the prohibited-entity definition illustrates its failure to grapple with the rational-basis standard. For example, plaintiff

depicts (Opening Br. 28) the statutory requirement that an entity have obtained over $800,000 in state and federal Medicaid funds in 2023 as "illogical." But that requirement has many conceivable rational bases. Congress could rationally conclude that entities that have previously received a significant amount of Medicaid reimbursements are likely to perform more abortions, to rely on federal Medicaid funds, and to warrant the administrative efforts that may be involved in determining prohibited-entity status.

Plaintiff fares no better in criticizing (Opening Br. 27) the non-profit-status requirement. Congress could rationally conclude that non-profits are more likely to depend on federal Medicaid funds (as plaintiff concedes that it does, *see* Opening Br. 4) or that major abortion providers that receive an implicit government subsidy in the form of tax-exempt status should not also obtain federal Medicaid funds. Plaintiff's claim that "[t]his exact argument was rejected" by the Eighth Circuit in *Minnesota* is incorrect. Opening Br. 28 (citing 612 F.2d at 360). As noted, *Minnesota* involved the application of rational-basis review following a trial regarding the state legislature's objectives, and the Eighth Circuit did not address any of the legitimate bases for the non-profit-status requirement that the government invokes here. And even if it had, that would not mean that such reasoning could be attributed to the Supreme Court. *See supra* pp. 18-19.

Similarly incompatible with rational-basis review is plaintiff's discussion of the remaining elements of the prohibited-entity definition. Essential community

providers—which mainly serve low-income, medically underserved individuals, *see* 45 C.F.R. § 156.235—are most likely to have many Medicaid patients, making those providers particularly reliant on Medicaid payments and justifying the administrative burdens associated with identifying prohibited entities. And the requirement that an entity "primarily" provide family planning and reproductive health services helps to identify the entities likely to perform a higher proportion of abortions. 139 Stat. at 300.

It is likewise error for plaintiff to declare (Opening Br. 25) that because federal law "already prohibits the use of federal Medicaid funding for abortions," Section 71113 has no legitimate basis. The district court correctly recognized that the longstanding federal prohibition to which plaintiff refers is not "the high-water mark of funding measures that Congress can employ to dissociate federal Medicaid expenditures from abortion services." A18 (Aug. 25 Order). As discussed, Section 71113 furthers Congress's legitimate interests in ensuring that taxpayer dollars do not indirectly subsidize abortions and in declining to support entities engaged in a practice that many Americans find abhorrent.

Plaintiff offers no persuasive response to the argument that Congress was entitled to conclude that federal Medicaid funds provided to prohibited entities may be used to subsidize abortions. Plaintiff contends (Opening Br. 25) that the "'freeing-up' argument has been repeatedly rejected as a matter of law." Unsurprisingly, none of the three opinions that plaintiff cites reflects a blanket rejection of the common-

sense proposition that "[m]oney is fungible," and none supports plaintiff's position in this case. *Holder*, 561 U.S. at 31. The first opinion applied heightened scrutiny rather than rational-basis review and relied in significant part on the then-extant abortion right. *See Planned Parenthood of Cent. & N. Ariz. v. Arizona*, 718 F.2d 938, 945 (9th Cir. 1983). The second opinion is the Eighth Circuit's decision in *Minnesota*, which rejected a freeing-up argument based on trial evidence regarding the plaintiff's "accounting procedures" at the time. *See* 612 F.2d at 361. As noted, the Supreme Court has since clarified that "a legislative choice is not subject to courtroom fact-finding and may be based on rational speculation unsupported by evidence or empirical data." *Beach*, 508 U.S. at 315. And the third opinion plaintiff cites does not reflect the view of any court or address a constitutional claim but rather is a separate writing that would have upheld an agency action against a challenge under the Administrative Procedure Act. *Ohio v. Becerra*, 87 F.4th 759, 790 (6th Cir. 2023) (Moore, J., concurring in in the judgment in part and dissenting in part).

Equally unavailing is plaintiff's contention that Medicaid operates as a fee-for-service program in which providers are reimbursed "for the specific costs of Medicaid covered services." Opening Br. 24. That is not the only way federal Medicaid reimbursements are structured, *see* JA55-59, and in any event the relevant point is that when prohibited entities obtain such reimbursements, nothing stops them from using the proceeds to fund abortions. Plaintiff's assertion (Opening Br. 33) that the loss of federal Medicaid reimbursements will prompt it to "end[] its primary care practice"

and "cut[]" its "family planning program" demonstrates that those reimbursements subsidize all of its operations.

The extent of plaintiff's departure from established principles is also evident in its suggestion that Section 71113 may lead to a greater number of abortions. According to plaintiff, the funding restriction risks "reducing access to contraception care," which may create the "potential for unplanned pregnancies," and thus, potentially, more abortions. Opening Br. 24. This chain of conjectures would not justify the invalidation of an Act of Congress under any standard, much less rational-basis review.

III. The Remaining Factors Confirm That Plaintiff Is Not Entitled To An Injunction

Because plaintiff has failed to establish a likelihood of success on the merits, it is not entitled to a preliminary injunction. *See Doe v. Trustees of Bos. Coll.*, 942 F.3d 527, 536 (1st Cir. 2019). The equitable factors reinforce that conclusion.

Preventing the government from enforcing Section 71113 would inflict serious harm on the government and the public. There is a strong "presumption of constitutionality which attaches to every Act of Congress." *Bowen v. Kendrick*, 483 U.S. 1304, 1304 (1987) (Rehnquist, C.J., in chambers). "Any time a [government] is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury." *District 4 Lodge of the Int'l Ass'n of Machinists & Aerospace Workers Loc. Lodge 207 v. Raimondo*, 18 F.4th 38, 47 (1st Cir. 2021). Thus, the

Supreme Court has traditionally presumed that "all Acts of Congress . . . 'should remain in effect pending a final decision on the merits by th[e Supreme] Court.'" *Turner Broad. Sys., Inc. v. FCC*, 507 U.S. 1301, 1301 (1993) (Rehnquist, C.J., in chambers).

These harms would be especially significant given Section 71113's subject matter. An injunction would trench on Congress's "broad discretion" under Article I of the Constitution to determine how taxpayer dollars are spent. *AID*, 570 U.S. at 213. And the spending determination at issue here reflects the elected Branches' adoption of a policy against allocating federal taxpayer dollars to providers of abortion—conduct that many Americans find abhorrent and do not wish to subsidize. That policy is freighted with moral and political significance, and an injunction blocking it would inflict grave injury by "prevent[ing] the Government from enforcing its policies" in this sensitive area. *Trump v. CASA, Inc.*, 606 U.S. 831, 859 (2025).

There is no basis for plaintiff's extraordinary claim that a preliminary injunction would not "interfere with any of Congress's powers." Opening Br. 37. Plaintiff contends that "there is generally no public interest in unlawful agency action." *Id.* (citing *Somerville Pub. Sch. v. McMahon*, 139 F.4th 63, 76 (1st Cir. 2025)). That contention rests on the false premise that Section 71113 fails rational-basis review, and it would not in any event support plaintiff's request for an injunction barring the enforcement of an Act of Congress. Plaintiff similarly fails to advance its argument by suggesting (Opening Br. 36) that the government lacks an interest in enforcing

Section 71113 because the statute does not withhold federal funding from all "abortion providers." The fact that Congress acted in a tailored way, by terminating federal Medicaid funding for major abortion providers rather than for every entity that performs abortions, is not a basis for preventing Congress from acting at all. *Cf. supra* p. 17. Equally meritless is plaintiff's assertion (Opening Br. 35) that an injunction would preserve the "status quo." The status quo includes Section 71113, a duly enacted Act of Congress that is currently in effect.

By contrast, plaintiff fails to establish any irreparable harm, much less harm sufficient to justify enjoining the enforcement of an Act of Congress. Plaintiff "seeks a judicial declaration" compelling the government to "continue to spend dollars in a way that is contrary to the will of the people as expressed by Congress." A4 (Aug. 25 Order). But any injury from lost funds is reparable, as plaintiff could likely seek reimbursement for covered services from Maine at the conclusion of this litigation if it were to prevail. *See* 42 U.S.C. § 1320b–2(a) (providing states up to two years to submit claims for services rendered to state Medicaid agencies or designated contractors); 45 C.F.R. § 95.19 (creating an exception to the two-year deadline when payments are made pursuant to a court order). And although plaintiff contends (Opening Br. 35) that an inability to access federal Medicaid funds may lead it to "discharge patients" or "lay off staff," it does not explain why that would entitle it to obtain taxpayer dollars that Congress withheld. As the district court emphasized, because Section 71113 is a product of the democratic process, "[i]t would be a special

kind of judicial hubris to declare that the public interest has been undermined by the public." A22.

CONCLUSION

For the foregoing reasons, this Court should affirm the denial of plaintiff's preliminary-injunction motion.

Respectfully submitted,

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November 2025

CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limit of Federal Rule of Appellate Procedure 32(a)(7)(B) because it contains 6,401 words. This brief also complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 32(a)(5)-(6) because it was prepared using Word for Microsoft 365 in Garamond 14-point font, a proportionally spaced typeface.

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CERTIFICATE OF SERVICE

I hereby certify that on November 21, 2025, I electronically filed the foregoing brief with the Clerk of the Court for the United States Court of Appeals for the First Circuit by using the appellate CM/ECF system. Service will be accomplished by the appellate CM/ECF system.

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