



PRESS RELEASE

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Manatt Represents Medicaid Health Plans in 5th Circuit Health Insurance Fee Case

WASHINGTON, DC (December 2, 2019) – On November 27, 2019, Manatt, Phelps & Phillips, LLP, filed an amicus brief on behalf of the Medicaid Health Plans of America (MHPA), a nonprofit trade association of Medicaid managed care organizations (MCOs), in the U.S. Court of Appeals for the Fifth Circuit. The case, *Texas v. Rettig*, was brought by six states challenging the federal requirement that states reimburse MCOs for the health insurance provider fee (HIPF) that MCOs pay under the Affordable Care Act.

The U.S. District Court for the Northern District of Texas granted partial summary judgment to the plaintiff states in 2018, when it set aside the federal regulation that requires the capitation rates that states pay to MCOs be certified by a qualified actuary complying with professional standards of practice. MHPA's brief opposes that part of the district court's decision, because it means that MCOs could be paid inadequate capitation rates that are insufficient to compensate MCOs for the costs of the care they provide under their contracts with the states.

"In most cases, the certification by a qualified actuary that capitation rates are sound is the only check that the federal government, state Medicaid agencies, beneficiaries, and healthcare providers have for the solvency and the stability of high-quality healthcare and improved health outcomes offered by MCOs in the Medicaid managed care delivery system," said [Shannon Attanasio](#), Vice President of Government Relations and Advocacy at the Medicaid Health Plans of America.

MHPA's brief explains the real-world consequences of the district court's judgment and points out that the plaintiff states lack standing to challenge the regulation requiring certification of rate by a qualified actuary, because the plaintiff states have conceded that even if the regulation were struck down, the plaintiff states would still be required to reimburse the MCO for the HIPF. MCOs in the six plaintiff states paid \$389 million in HIPF over three years.

“Although the Fifth Circuit should reverse the district court because the Plaintiffs have conceded that they are required to reimburse the MCOs even if the regulation were struck down, our brief emphasizes the wide-ranging and negative consequences that could arise if states were not required to rely on the professional standards of qualified actuaries in setting Medicaid capitation rates,” said [Michael Kolber](#), partner with Manatt Health.

The Manatt team representing Medicaid Health Plans of America is led by partner [Michael Kolber](#) and includes appellate partner [Benjamin G. Shatz](#), litigation partner [Andrew Zimmitti](#), and Manatt Health counsel [Adam M. Finkelstein](#) and associate [Julian Polaris](#).

[Click to read full Manatt’s full amicus brief.](#)

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ABOUT MHPA

Founded in 1995, the Medicaid Health Plans of America (MHPA) represents the interests of the Medicaid managed care industry through advocacy and research to support innovative policy solutions that enhance the delivery of comprehensive, cost-effective, and quality healthcare for Medicaid enrollees. MHPA works on behalf of its 94-member health plans, known as managed care organizations (MCOs), which serve approximately 23 million Medicaid enrollees in 37 states and the District of Columbia, or about one-third of all Medicaid beneficiaries in states with managed care delivery systems. MHPA’s members include both for-profit and non-profit, national and regional, as well as single-state health plans that compete in the Medicaid market. medicaidplans.org