

IN THE UNITED STATES DISTRICT COURT
FOR THE DISRICT OF COLUMBIA

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)	
ANDREA YOUNG, et al.,)	
)	
Plaintiffs,)	
)	Case No. 3:19-cv-03526
v.)	
)	
ALEX M. AZAR II., et al.,)	
)	March 16, 2020
Defendants.)	
_____)	

**MOTION OF MICHIGAN ASSOCIATION OF HEALTH PLANS FOR LEAVE
TO FILE A BRIEF *AMICUS CURIAE* IN SUPPORT OF THE INTERVENOR**

The Michigan Association of Health Plans (MAHP) respectfully requests leave to file a brief as amicus curiae in support of the intervenor in the above-captioned proceeding. Counsel for defendants and the Intervenors have advised that they consent to the filing of this brief. Counsel for the plaintiffs has advised that the plaintiffs do not oppose the filing of this brief and has consented to a submission deadline of March 19, 2020.

District courts have “broad discretion” to permit a non-party to participate in litigation as an *amicus curiae*. *Ellsworth Assocs., Inc. v. United States*, 917 F. Supp 841, 846 (D.D.C. 1996); *see also Nat’l Assoc. of Home Builders v. U.S. Army Corps of Eng’rs*, 519 F.Supp.2d 89, 93 (D.D.C. 2007). Their “inherent authority” to appoint amici “is derived from Rule 29 of the Federal Rules of Appellate Procedure.” *Youming Jin v. Ministry of State Sec.*, 557 F.Supp.2d 131, 136 (D.D.C. 2008) (internal citations omitted). This court grants leave for submission of a

brief amicus curia if the information is “timely and useful,” including when the amicus has unique information of perspective that can help the court. *Ellsworth*, 917 F. Supp at 846 (internal citations omitted); *Youming Jin*, 557 F.Supp.2d at 136 (internal citations omitted).

Here, MAHP has particularized “familiarity and knowledge of the issues...that could aid in the resolution of this case.” *Ellsworth*, 917 F. Supp at 846. MAHP is a non-profit organization dedicated to advancing the interests of its member health plans who provide health coverage to over 3 million Michigan residents. The majority of MAHP’s member plans participate in Michigan’s Medicaid managed care program, providing health care coverage and access to 450,000 of the state’s most low-income residents. Every Michigan county is served by at least one MAHP member Medicaid Health Plan. MAHP’s mission is to promote and advocate for increased access to high quality, affordable health care for the citizens of Michigan. As such, MAHP has a distinct interest in this case and will offer this Court important information and context that will assist the Court in determining the proper outcome of the case.

More specifically, MAHP’s brief 1) will address the Court’s question of why the rest of the Healthy Michigan Plan (HMP) 1115 demonstration waiver does not need to be struck down alongside the community engagement provision, and 2) will describe the impact on Michigan’s Medicaid managed care delivery system and beneficiaries were the Court to vacate the waiver approval in its entirety. The Michigan Department of Health and Human Services (MDHHS) derives the legal authority to operate its managed care delivery system from the HMP demonstration. Removing MDHHS’ authority by vacating the entire approval would jeopardize access to care for patients covered under HMP, disrupt critical care coordination and other ongoing delivery system initiatives made by Medicaid Health Plans, and introduce considerable uncertainty into Michigan’s Medicaid program. Given that its members play an essential role in

the state's Medicaid managed care delivery system, MAHP can offer the Court unique and practical insight into the consequences of entirely striking down the HMP demonstration.

No party or counsel for a party authored this motion or the brief in whole or in part. No party, party's counsel, or person – other than the amicus curiae – contributed money intended to fund the preparation or submission of this motion or the brief.

For the foregoing reasons, the Michigan Association of Health Plans respectfully requests that the Court grant its Motion for Leave to File a Brief Amicus Curiae in support of the Intervenor.

Dated: March 16, 2020

Respectfully Submitted,

By: /s/ Barbara Eyman
Barbara D.A. Eyman (DC Bar No. 439684)
Eyman Associates, PC
1120 G Street NW, Suite 770
Washington, DC 20005
Telephone: (202) 567-6203
Beyman@eymanlaw.com
Counsel for Michigan Association of Health Plans