MAINE SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

Law Court Docket No. AND-25-479

ASHLEY LYNNE, *et al.*
Appellees

v.

DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*
Appellants

On Appeal from the Androscoggin County Superior Court

Brief of *Amicus Curiae* Maine Trial Lawyers Association

ON BEHALF OF MAINE TRIAL LAWYERS ASSOCIATION

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INTRODUCTION

The Maine Trial Lawyers Association (MTLA) respectfully submits this brief as *amicus curiae*. The parties have filed their consent to this brief with the Clerk of the Court.

The MTLA is a voluntary state bar association with the mission of promoting and preserving the civil justice system and championing the cause of those who deserve redress for personal injury. Many injured plaintiffs represented by MTLA members have or will receive medical treatment for their injuries paid for by MaineCare. MTLA members and their clients will be directly affected by this Court's interpretation of federal Medicaid statutes impacting MaineCare liens and the Maine statute empowering trial courts to determine a "reasonable amount" in satisfaction of Maine Department of Health and Human Services' (DHHS') statutory MaineCare lien.

The MTLA is concerned that DHHS' proposed formula to determine a reasonable amount in satisfaction of its MaineCare lien from a personal injury plaintiff's settlement or award, would have serious negative consequences for persons injured by tortious conduct and would deter plaintiffs from settling cases, burdening the civil justice system and

impacting DHHS' ability to recoup its costs given the increased risk inherent in trials.

FACTS AND PROCEDURAL HISTORY

L.W. suffered an injury to her arm and elbow and brought a claim against Quadrant Associates and Quadrant Property Management for her injuries. Appendix (App.) 9. She required medical treatment, which was covered by MaineCare. App. 9 Medical providers billed $207,591.04 for L.W.'s care. *Id*. MaineCare paid $34,078.70 to L.W.'s medical providers to cover the cost of her care. *Id*.

The undisputed value of L.W.'s lawsuit against Quadrant Associates and Quadrant Property Management was $375,000. App. 9, 66. L.W.'s claims against Quadrant ultimately settled for $160,000, approximately forty-three percent of the full case value. App. 9.

DHHS asserted a lien of $34,078.70 on the settlement proceeds and refused to reduce its lien when requested by L.W.'s counsel. App. 9. L.W. filed a complaint in Superior Court for declaratory judgment, asking the court pursuant to 22 M.R.S. section 14 to determine that DHHS' lien should be reduced by the same proportion as L.W.'s recovery for non-medical damages was reduced in the settlement. App. 9-10. L.W. sought a declaration that this

proportionate reduction is a reasonable amount in satisfaction of DHHS' lien. App. 10.

DHHS moved the Superior Court for summary judgment, arguing DHHS was entitled to reimbursement of its entire $34,078.70 lien for its costs. App. 10. To justify its position, DHHS proposed a novel formula to determine the amount of amount of the settlement attributable to medical expenses, based on the amounts billed for L.W.'s medical care rather than the amounts it paid. App. 11. This formula resulted in a claimed allocation of $86,400 of the total settlement for medical expenses, more than double the cost to DHHS for L.W.'s covered medical care. App. 16.

The Superior Court declined to adopt this novel formula. It determined that $14,540.25 is a "reasonable amount" to satisfy DHHS' MaineCare lien, consistent with federal law. App. 8. This amount represents approximately forty-three percent of MaineCare's lien. *See id*.

ISSUE PRESENTED FOR REVIEW

I. Did the Superior Court abuse its discretion or violate federal Medicaid law when it reduced DHHS' lien on a personal injury settlement by the same fraction as the plaintiff's case value was reduced by settlement?

SUMMARY OF THE ARGUMENT

Maine statute vests the Superior Court with considerable discretion in determining a 'reasonable amount' to satisfy DHHS' lien on a personal injury settlement, consistent with federal Medical law. The Superior Court did not abuse its discretion by relying on a formula endorsed by the Supreme Court in *Arkansas HHS v. Ahlborn* to reduce DHHS' lien by the same fraction as L.W.'s full case value was reduced by settlement. This formula is consistent with federal Medicaid and State MaineCare statute, which authorize DHHS' MaineCare lien based only on the amount paid for medical care and reduces the lien from there to account for limits on a tortfeasor's extent of liability.

DHHS' proposed formula has no support in federal Medicaid statute, MaineCare statute, or case law, and violates federal Medicaid anti-lien law by reimbursing DHHS from plaintiff's property—the amount of settlement apportioned to non-medical damages. DHHS' one-size-fits all formula is also inconsistent with the case-by-case, fact-specific analysis for lien reduction required of DHHS by 22 M.R.S. section 14.

It is particularly inequitable for DHHS to take no reduction of its lien when the State declines to exercise its statutory right to sue the tortfeasor, instead relying on the plaintiff to expend attorney's fees, costs, time, and

stress in pursuing litigation, and then attempting to require the plaintiff to bear a disproportionate share of the reduction in case value through settlement.

DHHS's proposed formula is also against public interest because it will deter settlement of claims, increasing the burden on courts and decreasing DHHS' chances of recovering its costs due to the increased risk of trial.

ARGUMENT

I. The Superior Court did not abuse its discretion or violate federal Medicaid law when it reduced DHHS' MaineCare lien by the same fraction as the plaintiff's case value was reduced by settlement.

A. This Court reviews the Superior Court's determination of a 'reasonable' amount to satisfy DHHS' MaineCare lien on a personal injury settlement for an abuse of discretion.

A party appealing a decision "committed to the reasonable discretion" of the Superior Court by statute, bears the burden of demonstrating the court "abused its discretion in reaching the decision under appeal." *Sager v. Town of Bowdoinham*, 2004 ME 40, ¶ 11, 845 A.2d 567. Maine statute provides the parties in this appeal a mechanism to ask the Superior Court for an order "to determine a *reasonable amount* in satisfaction of [DHHS's] statutory lien, consistent with federal law." 22 M.R. S. § 14(2-F)(2026)(emphasis added). The statute allows the Superior Court to choose from a range of reasonable

choices, provided the lien reduction is consistent with federal Medicaid law. *See Sager*, 2004 ME 40, ¶¶ 10-11 (state statute allowing municipal officers to "make such [tax] abatements as they believe reasonable" for disabled or poor taxpayers gave the municipal officers a range of reasonable choices).

This Court may find an abuse of discretion only on a showing the Superior Court "exceeded the bounds of reasonable choices available to it, considering the facts and circumstances of the particular case and the governing law." *Sager*, 2004 ME 40, ¶ 11. The appellant cannot meet its burden by demonstrating the Superior Court "could have made choices more acceptable to the appellant or even to a reviewing court." *Id*.

Maine statute requires the Superior Court's decision be "consistent with federal law." 22 M.R.S. § 14(2-F)(2026). Any reimbursement to DHHS from a portion of settlement funds not "designated as payments for medical care" is also pre-empted by the anti-lien provision of federal Medicaid law. *Wos v. E.M.A.*, 568 U.S. 627, 630 (2013). This Court's review of the Superior Court's interpretation of federal Medicaid law is *de novo*, although this Court will not "substitute its judgment" for that of the decision-maker below. *Doane v. Dep't of Health and Human Servs.*, 2021 ME 28, ¶ 15, 250 A.3d 1101.

B. The Superior Court did not abuse its discretion by reducing DHHS' MaineCare lien using the exact formula the Supreme Court endorsed in *Arkansas HHS v. Ahlborn*.

The Supreme Court affords States "considerable latitude" in designing procedures to ensure a fair allocation of damages. *Wos*, 568 U.S. at 641. Maine's Legislature chose a process by which DHHS or a personal injury plaintiff may apply to the Superior Court "for an order to determine a reasonable amount in satisfaction of [DHHS'] statutory lien, consistent with federal law." 22 M.R.S. section 14(2-F)(2026). Rather than adopting a one-size-fits-all formula like those struck down by the Supreme Court in *Wos* and *Ahlborn*, the Legislature left the decision to the Superior Court's discretion, with reasonableness as the lodestar so long as the court did not violate federal Medicaid law.

Charged with choosing among a range of reasonable choices compliant with federal Medicaid law, the Superior Court used the same formula endorsed by the Supreme Court in *Arkansas HHS v. Ahlborn*. App. 15, 18; *Ark. HHS v. Ahlborn*, 547 U.S. 268 (2006). This formula reduces DHHS' lien by the same percentage as the MaineCare recipient's full case value is reduced in settlement. *Ahlborn*, 547 U.S. at 274. Thus, DHHS' lien was reduced to

approximately forty-three percent of DHHS' costs, commensurate with L.W.'s settlement for forty-three percent of the undisputed value of her case. App. 8.

The *Ahlborn* Court applied a formula to which the parties in that case had stipulated, but the Supreme Court effectively sanctioned the formula by equating the stipulation to a judicial determination or jury award allocating the amount of a settlement attributable to medical payments. *Ahlborn*, 547 U.S. at 282 n.12. The Superior Court's choice to apply the *Ahlborn* formula was entirely "within the bounds" of available reasonable choices.

DHHS argues the Superior Court's decision must be overturned because it is irrational, unreasonable, and inconsistent with federal law, when in fact it follows Supreme Court precedent. Appellant's Br. 11. In essence, DHHS asks this Court to overturn the Superior Court in order to impose a formula more acceptable to DHHS. See Appellant's Br. 22 ("In DHHS' view, the portion of the settlement that is allocated to medical expenses should be determined by…"). Such an argument falls short of meeting DHHS' burden on appeal. *Sager*, 2004 ME 40, ¶ 11.

C. The Superior Court's decision was consistent with federal Medicaid law and 22 M.R.S. section 14(1), which both refer to amounts paid by Medicaid/Mainecare, not amounts billed.

DHHS' right to reimbursement of some portion of the amounts it paid for L.W.'s medical care arises from, and is limited by, federal Medicaid law. On the one hand, States are required to seek reimbursement for "medical expenses paid" on the beneficiary's behalf. *Wos v. E.M.A.*, 568 U.S. 627, 633-34 (2013)(interpreting 42 U.S.C. §§ 1396k(a)(1)(A) and 1396a(a)(25)(H)). Maine's Legislature complied with this requirement by enacting 22 M.R.S. section 14(1), which gives DHHS the right to recover from a third-party tortfeasor "the cost of the benefits provided" to a MaineCare beneficiary for treatment of injuries the tortfeasor caused. 22 M.R.S. § 14(1)(2026).

On the other hand, States may not take "any portion of a Medicaid beneficiary's tort judgment or settlement not designated as 'payments for medical care.'" *Wos v. E.M.A.*, 568 U.S. 627, 630 (2013)(citing *Ahlborn*, 547 U.S. at 284); *see also* 42 U.S.C. § 1396p(a)(1)(2026). The Legislature complied with this limitation by authorizing MaineCare to recover the "cost of the [MaineCare] benefits provided" only "*to the extent of the recovery* for medical expenses." 22 M.R.S. § 14(1)(2026)(emphasis added).

Federal Medicaid statutes authorizing DHHS' right to reimbursement reference the amounts paid for a beneficiary's medical care, not the amount billed. Federal Medicaid statute requires States to enact laws giving the State the right, "to the extent that payment has been made under the State plan," to acquire the Medicaid beneficiary's rights to payment for medical services from the tortfeasor. 42 U.S.C. 1396a(a)(25)(H)(2026). Thus, DHHS' right to reimbursement from L.W.'s settlement funds hinges on and derives from the amount DHHS paid, not amounts billed to DHHS. States must seek "reimbursement," when cost-effective, for medical "assistance" "made available" to Medicaid beneficiaries, to the extent of a third-party tortfeasor's liability. 42 U.S.C. 1396a(a)(25)(B)(2026). Again, the State's right to reimbursement is derived from the amount DHHS paid in covering a beneficiary's medical care.

Maine's corollary statute starts by authorizing reimbursement for the "costs of [MaineCare] benefits provided," and then qualifies that reimbursement, limiting it "to the extent of the recovery for medical expenses." 22 M.R.S. § 14(1)(2026)(emphasis added). The statute's structure, which starts with the amount DHHS paid and then reduces that by the "extent of the recovery" echoes federal statute. Additionally, the DHHS

Commissioner's right to recover "the cost of benefits provided" is expressly described as a right "to recover the cost of the benefits actually paid out." *Id.*(emphasis added). Maine statute authorizing the Superior Court to determine a reasonable amount for satisfaction of DHHS' lien defines DHHS' right to reimbursement as reimbursement "for medical payments made." 22. M.R.S. § 14(2-F)(2026)(emphasis added). Again, DHHS' right to reimbursement derives from and is defined by the amounts it paid.

DHHS' novel and unsupported formula uses the amount of medical bills submitted for a MaineCare beneficiary's medical care as a starting point. Appellant's Br. 22-23. Its formula then reduces the bills in the same proportion as the case value was reduced by settlement, to determine the amount of settlement attributable to medical expenses. *Id.*

Given that DHHS' statutory right to reimbursement starts with the amounts actually paid for a beneficiary's medical services and is reduced from there to account for the extent of a tortfeasor's liability, DHHS has no statutory support—and can cite to none—for a lien reduction formula that starts with the amounts billed. The Superior Court's decision was reasonable and entirely consistent with federal Medicaid law, as well as MaineCare statute.

D. The Superior Court did not abuse its discretion in following case law from other jurisdictions when DHHS cited no case law supporting its novel formula for lien reduction.

The Arizona Appeals Court has considered the exact issue on appeal here and held that Arizona Medicaid lien recovery must be calculated based on the amount that state paid for medical services, not the amount billed. *Southwest Fiduciary, Inc. v. Ariz. Health Care Cost Containment Sys. Admin.*, 249 P.3d 1104, 1108 (Ariz. Ct. App. 2011). The court relied on 42 U.S.C. 1396a(a)(25)(B)'s directive that states seek "reimbursement" for Medicaid payments from liable third party tortfeasors to interpret its state statute as authorizing reimbursement for "charges actually paid" by the state Medicaid program. *Id*. Applying that principle to the question of how to calculate the amount of a Medicaid beneficiary's tort settlement attributable to medical expenses, the Arizona Appeals Court reasoned the share should be calculated based on the amount paid by the state Medicaid program, not the amounts billed to it. *Id*; *see also Farah v. Commonwealth*, 868 S.E.2d 422, 427 (Va. 2022)(holding the portion of a settlement allocated to medical expenses must be calculated using the amount actually paid by state Medical program, based on use of the terms "paid" and "payments made" in federal Medicaid statute and the fact that state law allowed a lien only for the "total amount

paid" by the state Medicaid agency). Thus, at least two courts in other jurisdictions used the exact reasoning of the Superior Court below, to arrive at the same conclusion.

The Colorado Court of Appeals reached the same result as the Superior Court in this case, on different reasoning. *State Dep't of Health Care Policy & Fin. v. S.P.*, 356 P.3d 1033, 1040 (Colo. Ct. App. 2015). The Colorado court held the trial court was reasonable to calculate the amount of settlement attributable to medical expenses using the amount paid by Colorado's Medicaid program, because the amount paid was an objective measure of damages and the personal injury plaintiff might not have received the full amount billed from a jury at trial. *Id.* This reasoning applies equally to the case on appeal. Plaintiff's medical damages are ultimately determined by a jury and the Superior Court's allocation of medical expenses approximates a jury's verdict. *See* Alexander, J., 1 *Maine Jury Instruction Manual* § 7-108 Medical Expenses. Instruction (2026). For this reason, the Superior Court was reasonable to use the amounts paid.

By contrast, DHHS has cited to no court decision adopting its novel formula based on the amounts billed to MaineCare rather than the amount MaineCare paid. The Superior Court's decision to follow the only other

persuasive authority from other jurisdictions, rather than adopt a novel approach without support anywhere, was entirely reasonable.

II. DHHS's proposed formula violates federal Medicaid anti-lien law by reimbursing DHHS from sums a personal injury claimant receives for non-medical damages.

Federal Medicaid law prohibits states from imposing liens "against the property of any individual prior to his death on account of medical assistance paid. . . on his behalf under the State plan." 42 U.S.C. § 1396(p)(a)(1)(2026). The Supreme Court has interpreted this statute to prohibit a State from taking "any portion of a Medicaid beneficiary's tort judgment or settlement not 'designated as payments for medical care.'" *Wos*, 568 U.S. 627, 630 (2013)(citing *Ahlborn*, 547 U.S. at 284).

Like most personal injury plaintiffs, L.W.'s claim included non-medical damages. These included past and future pain and suffering, lost enjoyment of life, and permanent disfigurement. App. 24.

It is undisputed that L.W. settled her case for forty-three percent of its full value. App. 9, 66. Logically, her non-medical damages were thereby reduced to forty-three percent of their full value. DHHS has cited to no facts or circumstances about L.W.'s case or the settlement to justify a sharper

reduction for non-medical damages than for medical. Yet if DHHS' lien for its medical costs is not reduced to account for settlement at less than half of full value, the money to pay it can only come from the portion of settlement attributable to non-medical damages. This violates Supreme Court precedent and federal Medicaid anti-lien statute. *Ahlborn*, 547 U.S. at 284.

DHHS cites to no law or fact to support reimbursement from L.W.'s non-medical damages. Instead, it argues for an artificially inflated allocation of the full case value for medical expenses, resulting in an allocation of the settlement for medical expenses significantly greater than the amount MaineCare actually paid. As set forth in the previous section, DHHS' proposed formula conflicts with federal Medicaid and MaineCare statute, which limit DHHS' right to reimbursement to the amount actually paid and create a framework for reducing DHHS' lien down from that amount to account for the extent of a tortfeasor's liability.

Without any rational basis for reducing L.W.'s non-medical damages more steeply than medical damages in the settlement allocation, DHHS' proposed formula violates 42 U.S.C. § 1396p(a)(1)(2026).

III. DHHS' proposed formula is against public interest because it is inequitable and will deter personal injury plaintiffs from settling their claims, resulting in decreased recovery for DHHS.

A. DHHS' proposed formula is particularly inequitable when the State declines to exercise its statutory right to sue the tortfeasor, instead relying on the personal injury plaintiff to shoulder the fees, costs, time, and stress of litigation.

Maine statute vests the Attorney General with the right to initiate and prosecute suit against a third-party tortfeasor to recover its costs for a MaineCare beneficiary's medical care. 22 M.R.S. § 14(1)(2026). The Attorney General can do this either in the name of the DHHS Commissioner or as subrogee of the MaineCare beneficiary. *Id*. Alternatively, DHHS can recover its costs by collecting on the lien placed on a MaineCare beneficiary's own jury award or settlement, "to the extent of the recovery for medical expenses." *Id*. In this case as in most cases, DHHS elected the third option.

When DHHS declines to exercise its statutory right to sue the tortfeasor, the personal injury plaintiff bears the burden of attorney's fees, costs, and the considerable stress and time expended in litigation, while DHHS expends no resources in litigation against the tortfeasor. Given this imbalance in resource expenditure, it is particularly inequitable for DHHS to take no reduction on its lien to account for a settlement at less than full case

value, while the plaintiff, who expended considerable resources, bears the entire brunt of the reduction.

DHHS' proposed formula is not only inequitable, it conflicts with the policies and purposes of 22 M.R.S. section 14. The Maine Legislature recognized in section 14 the significant costs of personal injury litigation and the numerous factors resulting in a plaintiff's reduced settlement. The Legislature directs DHHS to collect from third party personal injury suits the amounts it paid out for medical services--"to the extent of the recovery"—and only after DHHS has determined "that collection will be cost-effective." 22 M.R.S. § 14(1)(2026). The Legislature provided guidance for determining whether collection will be cost-effective, asking DHHS to consider all factors that diminish a case's value and thus DHHS' potential recovery, including but not limited to" "questions of liability and comparative negligence or other legal defenses," "exigencies of trial" driving a reduced settlement, and a tortfeasor's insurance coverage limits. *Id*. DHHS is also empowered to compromise or waive its lien when "the best possible outcome" requires this. *Id*.

DHHS' proposed one-size-fits-all formula conflicts directly with the flexible, case-specific approach of section 14 in which DHHS "shall"

consider a range of factors affecting the cost-effectiveness of DHHS' recovery. *See id*.

B. DHHS' proposed formula is against the public interest because it will deter personal injury plaintiffs from settling claims, increasing the burden on courts and decreasing DHHS' recovery.

This Court has recognized that settlement of legal claims is "very much in the public interest." *A.L. Brown Constr. Co. v. McGuire*, 495 A.2d 794, 797 (Me. 1985). Increasingly, more and more claims and lawsuits are resolved by settlement, as court rules and practices promote Alternative Dispute Resolution and litigants seek to avoid the cost, delay, and uncertainty of trial. See Mark Galanter, *The Hundred-Year Decline of Trials and the Thirty Years War*, 57 Stan. L. Rev. 1255, 1272-74 (2005). Personal injury plaintiffs decide to settle cases for less than full value for a variety of reasons: the risks, delay, and costs of trial; legal issues with proving negligence or causation; the possibility a jury will assign comparative fault; and limits on a defendants' insurance coverage or ability to pay.

If this Court were to rule for Appellant DHHS, a personal injury plaintiff whose medical care was covered by MaineCare would have less incentive to settle their case for an amount significantly below full case

value. As a hypothetical, consider a scenario in which the plaintiff's claim has a full value of $400,000 and MaineCare paid $100,000 in medical expenses, although medical providers billed MaineCare $300,000. If the tortfeasor offers a settlement of $150,000, for instance due to issues with proof of causation, DHHS would assert entitlement to its full lien of $100,000 pursuant to its proposed formula. After payment of attorney's fees and costs, the plaintiff would be left with virtually nothing. A rational plaintiff would prefer the risk of pursuing the case to trial, burdening the judicial system with a complex case that could otherwise have settled. Trial would expose both plaintiff and DHHS to a significant risk of recovering nothing.

This Court should affirm the Superior Court and reject DHHS' proposed formula for MaineCare lien reduction because it against the public interest. The proposed rule would impair personal injury plaintiffs' incentive and ability to settle claims, increase burden on the courts, interfere with efficient resolution of personal injury cases, and jeopardize DHHS' ability to recover MaineCare costs through liens on personal injury settlements.

CONCLUSION

For all the reasons stated above, *amicus curiae* Maine Trial Lawyers Association requests that this Court AFFIRM the Superior Court's entry of judgment in favor of Ashley Lynne and L.W.

Respectfully submitted on behalf
of Maine Trial Lawyers Association

Dated: March 16, 2026

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