

1 provides medical services to California's "aged" and those "who
2 lack sufficient annual income to meet the costs of health care."
3 Cal. Welf. & Inst. Code § 14000. To receive federal funding for
4 Medi-Cal, the state must present the federal government with its
5 Medicaid "plan" which, among other things, determines the rates at
6 which the state will reimburse providers of health services. See
7 42 U.S.C. §§ 1396-1, 1396a(a) (2012).

8 Petitioners are seventeen hospitals that provide services to
9 persons covered by Medi-Cal. On May 14, 2015, they filed suit
10 against DHCS in California Superior Court. In their first cause of
11 action, Petitioners seek a writ of mandate to enforce 42 U.S.C. §
12 1396a(a)(30)(A) ("Section (30)(A)") which requires state plans to
13 "assure that payments are consistent with efficiency, economy, and
14 quality of care and are sufficient to enlist enough providers so
15 that care and services are available under the plan at least to the
16 extent that such care and services are available to the general
17 population in the geographic area." The petition alleges that DHCS
18 violated Section (30)(A) from July 1, 2008 to April 3, 2011 by
19 allegedly reimbursing providers at rates lower than Section (30)(A)
20 permits. The second cause of action alleges that DHCS treated
21 "contract" hospitals differently than "noncontract" hospitals in
22 the reimbursement rates provided for in the Medicaid State plan,
23 violating the Equal Protection Clauses of the Fourteenth Amendment
24 of the United States Constitution and Article I, Section 7 of the
25 California Constitution. The third cause of action seeks
26 declaratory relief that the rate cuts are invalid and unlawful.

27 Petitioners seek an order "(a) declaring the . . . rate cuts
28 to be void and invalid; (b) compelling the Department not to apply

1 said rate cuts and to reverse any such rate cuts that have been
2 applied; and (c) commanding the Department to disgorge and pay the
3 Petitioners the amounts wrongfully withheld from them, plus
4 interest." ECF No. 1 ("Pet.") at 20. They also seek "Retroactive
5 and prospective Medi-Cal reimbursement reversing in full the
6 effects of the illegal rate cuts" and "compensatory damages" and
7 "attorneys' fees." Id.

8 On June 17, 2015, Respondents removed this action to the
9 United States District Court for the Northern District of
10 California on the grounds that this Court maintains original
11 jurisdiction over claims arising under the laws of the United
12 States. On June 22, 2015, Petitioners filed a motion to remand
13 back to state court.

14
15 **II. LEGAL STANDARD**

16 "A motion to remand is the proper procedure for challenging
17 removal." Moore-Thomas v. Alaska Airlines, Inc., 553 F.3d 1241,
18 1244 (9th Cir. 2009). Remand may be ordered either for lack of
19 subject matter jurisdiction or for any defect in the removal
20 procedure. See 28 U.S.C. § 1447(c). "[R]emoval statutes are
21 strictly construed against removal." Luther v. Countrywide Home
22 Loans Servicing, LP, 533 F.3d 1031, 1034 (9th Cir. 2008). "The
23 presumption against removal means that the defendant always has the
24 burden of establishing that removal is proper." Moore-Thomas, 553
25 F.3d at 1244. As such, any doubts regarding the propriety of the
26 removal favor remanding the case. See Gaus v. Miles, Inc., 980
27 F.2d 564, 566 (9th Cir. 1992).

1 **III. DISCUSSION**

2 The federal removal statute provides, in pertinent part, that
3 "any civil action brought in a State court of which the district
4 courts of the United States have original jurisdiction, may be
5 removed by the defendant or the defendants, to the district court
6 of the United States for the district and division embracing the
7 place where such action is pending." 28 U.S.C. § 1441(a). Federal
8 district courts "have original jurisdiction of all civil actions
9 arising under the Constitution, laws, or treaties of the United
10 States." Id. § 1331. The "arising under" qualification of § 1331
11 confers jurisdiction to hear "[o]nly those cases in which a well-
12 pleaded complaint establishes either that [1] federal law creates
13 the cause of action or that [2] the plaintiff's right to relief
14 necessarily depends on resolution of a substantial question of
15 federal law." Armstrong v. N. Mariana Islands, 576 F.3d 950, 954-
16 55 (9th Cir. 2009). "The presence or absence of federal-question
17 jurisdiction is governed by the 'well-pleaded complaint rule,'
18 which provides that federal jurisdiction exists only when a federal
19 question is presented on the face of plaintiff's properly pleaded
20 complaint." Caterpillar, Inc. v. Williams, 482 U.S. 386, 392
21 (1987).

22 Here, there can be no question that Plaintiffs' state court
23 complaint raises a number of issues of federal law, including the
24 adequacy of Medi-Cal reimbursements under Section (30)(A) and the
25 Equal Protection Clause of the Fourteenth Amendment. It is true
26 that the federal claims are raised by way of a cause of action
27 created by state law, namely, a writ of mandate under California
28 Civil Procedure Code section 1085. As the Supreme Court has

1 explained, however, "even though state law creates [a party's]
2 causes of action, its case might still arise under the laws of the
3 United States if a well-pleaded complaint established that its
4 right to relief under state law requires resolution of a
5 substantial question of federal law." City of Chi. v. Int'l Coll.
6 of Surgeons, 522 U.S. 156, 164 (1997) (quoting Franchise Tax Bd. of
7 State of Cal. v. Constr. Laborers Vacation Trust for S. California,
8 463 U.S. 1, 13 (1983)). Plaintiffs' claims unquestionably fit
9 within this rule. See, e.g., Medina v. SEIU-United Healthcare
10 Workers W., No. C 13-00858 SBA, 2013 WL 3157923, at *2-*3 (N.D.
11 Cal. June 20, 2013) (upholding on federal question grounds the
12 removal of a California mandamus action that sought to enforce
13 federal law).²

14 Petitioners argue they do not have standing to bring their
15 Section (30)(A) claims in federal court because of the Supreme
16 Court's decision in Armstrong v. Exceptional Child Ctr., Inc., 135
17 S. Ct. 1378 (2015). Without standing, they argue, this Court does
18 not have subject matter jurisdiction and removal from state court
19 was improper. In Armstrong, the Supreme Court held that Section
20 (30)(A) does not confer a private right of action and the sole
21 remedy provided by Congress for a State's failure to comply with

22 _____
23 ² The original complaint in Medina sought a writ of mandate to
24 enforce state law. The court, however, found that the state law
25 was preempted by federal law -- namely, the Labor Management
26 Relations Act ("LMRA") -- such that the writ of mandate actually
27 sought to enforce federal law. Thus, because the action turned on
28 the court's interpretation and application of the LMRA, the court
held that removal was proper. See Medina, 2013 WL 3157923, at *2-
*3. For our purposes, Medina illustrates that a federal district
court has subject matter jurisdiction over actions seeking a writ
of mandate where, as here, the writ of mandate seeks to enforce
federal law.

1 Section (30)(A) is the withholding of Medicaid funds by the
2 Secretary of Health and Human Services. See id. at 1385. Contrary
3 to Petitioners' assertion, the Court never even mentioned standing.
4 See also Armstrong v. Exceptional Child Center, Inc., No. 12-35382,
5 2015 WL 3540552, at *1 (9th Cir. June 5, 2015) (declining on remand
6 to dismiss for lack of standing and dismissing instead for failure
7 to state a claim upon which relief can be granted).

8 Standing contains three elements: injury-in-fact, a causal
9 relationship between the injury and the conduct complained of, and
10 a likelihood that the injury will be redressed by a favorable
11 decision ("redressability"). See Lujan v. Defenders of Wildlife,
12 504 U.S. 555, 560 (1992). Petitioners argue that they lack
13 standing for want of redressability. Not so. A favorable decision
14 in this case would result in a judicial declaration that the rate
15 cuts at issue are invalid and void and an order requiring DHCS to
16 pay the Petitioners the difference. A favorable decision, in other
17 words, would fully redress Petitioners' alleged injury.

18 It appears that Petitioners are actually arguing that a
19 favorable decision is unlikely in light of Armstrong.
20 Redressability, however, has to do with the likelihood that the
21 injury will be redressed if a favorable decision is rendered, not
22 the likelihood that a favorable decision will be rendered. Cf.
23 Warth v. Seldin, 422 U.S. 490 (1975) (dismissing plaintiffs' case
24 for lack of standing because the requested relief -- an
25 invalidation of zoning ordinances -- was unlikely to redress the
26 alleged injury -- a lack of affordable housing). Regardless, even
27 if Petitioners lacked standing to assert their Section (30)(A)
28 claim, they neglect the fact that they have also alleged a claim

1 under the Equal Protection Clause of the Fourteenth Amendment.
2 Petitioners also argue that the Eleventh Amendment deprives
3 this Court of jurisdiction. The Eleventh Amendment has no bearing
4 on this case, however, as it only immunizes the State from suits by
5 its citizens filed in federal court and offers no immunity to a
6 defendant that voluntarily seeks out federal jurisdiction through
7 removal. See *Lapides v. Bd. of Regents of the Univ. Sys. of Ga.*,
8 535 U.S. 613, 620 (2002) (holding that a state waives its Eleventh
9 Amendment immunity from suit in federal court when it voluntarily
10 invokes federal jurisdiction by removing a case from state court to
11 federal court). Petitioners' argument is therefore without merit.

12

13 **IV. CONCLUSION**

14 For the forgoing reasons, Petitioners' motion to remand is
15 DENIED.

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17 IT IS SO ORDERED.

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19 Dated: September 9, 2015

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UNITED STATES DISTRICT JUDGE

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