UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION

Christopher Matthew Thierry v. U.S. Secretary of Health and Human Services

Thierry · No. 4:25-cv-3765 · Decided March 6, 2026

SUMMARY

This Memorandum and Recommendation addresses the defendant’s motion to dismiss a Medicare-benefits action for lack of subject matter jurisdiction. The court recommends dismissal without prejudice because the plaintiff failed to timely request an administrative-law-judge hearing and therefore did not obtain a final decision subject to judicial review. It also concludes that the plaintiff’s claim falls below the Medicare Act’s applicable $1,900 jurisdictional amount-in-controversy minimum.

CASE DETAILS

COURT	United States District Court for the Southern District of Texas, Houston Division
WRITING FOR THE COURT	Christina A. Bryan
JURISDICTION	United States District Court for the Southern District of Texas, Houston Division
DECIDED	March 6, 2026
DOCKET	4:25-cv-3765
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendant moved under Federal Rule of Civil Procedure 12(b)(1) to dismiss Plaintiff's action seeking judicial review of a Medicare reimbursement denial. The magistrate judge issued a memorandum and recommendation recommending dismissal without prejudice for lack of subject matter jurisdiction.
STANDARD OF REVIEW	On a Rule 12(b)(1) motion, the court may weigh evidence and resolve factual disputes to determine whether it has subject matter jurisdiction, and may consider the complaint, undisputed record evidence, and resolved factual disputes. The plaintiff bears the burden of establishing subject matter jurisdiction.

PRECEDENTIAL VALUE	nonprecedential
PARTIES	Christopher Matthew Thierry v. U.S. Secretary of Health and Human Services

TOPICS

subject matter jurisdiction | motions to dismiss | exhaustion of remedies | medicare medicaid | civil procedure

PRACTICE AREAS

Medicare | federal civil procedure | administrative law

QUESTIONS PRESENTED

1. Whether the court had subject matter jurisdiction when Plaintiff failed to timely request an ALJ hearing and therefore did not obtain a final decision made after a hearing.
2. Whether the Medicare claim satisfied the statutory minimum amount in controversy for judicial review.

HOLDINGS

1. The court recommended dismissal for lack of subject matter jurisdiction because Plaintiff's untimely ALJ-hearing request resulted in no hearing and no final decision subject to judicial review under 42 U.S.C. § 405(g).
2. The court recommended dismissal because Plaintiff's claimed reimbursement amount of $1,771.90 was below the $1,900 jurisdictional minimum applicable to requests for judicial review filed on or after January 1, 2025.

KEY QUOTATIONS

> *"Congress has divested courts of subject-matter jurisdiction on any claim arising under the Medicare statute except as provided in 42 U.S.C. § 405(g), which is the 'sole avenue for judicial review for all 'claim[s] arising under' Medicare.""* (at 5)

> *"Due to Plaintiff's untimely hearing request, no hearing was held before an ALJ and thus no final decision subject to judicial review, as defined by the Act, has been made."* (at 6)

FACTUAL BACKGROUND

Plaintiff underwent oral surgery and sought Medicare reimbursement for a consultation and surgery totaling $1,771.90. CMS and its contractors denied the claim, and the Medicare QIC issued an unfavorable reconsideration decision on January 1, 2025. Plaintiff requested an ALJ hearing more than 120 days later, without requesting permission for a late filing or showing good cause; the ALJ dismissed the request and the Medicare Appeals Council denied review. The claimed amount was below the $1,900 jurisdictional minimum applicable to Medicare judicial-review requests filed on or after January 1, 2025.

PROCEDURAL HISTORY

CMS denied Plaintiff's Medicare reimbursement claim, and a contractor upheld the denial on redetermination. A Medicare Qualified Independent Contractor denied reconsideration, Plaintiff's request for an ALJ hearing was dismissed as untimely, and the Medicare Appeals Council denied review. Plaintiff then filed this federal action under 42 U.S.C. § 1395ff(b)(1), incorporating 42 U.S.C. § 405(g). Defendant moved to dismiss, and Plaintiff did not timely respond. The magistrate judge recommended granting the motion and dismissing the case without prejudice, subject to the parties' fourteen-day period for objections.

DISPOSITION

dismissed

CASES CITED

- Watson v. U.S. ex rel. Lerma, 285 F. App'x 140, 143 (5th Cir. 2008)
- Arthurton v. CarMax Auto Fin., No. 4:25-CV-02708, 2025 WL 3542156, at *1 (S.D. Tex. Nov. 17, 2025)
- Montez v. Dep't of the Navy, 392 F.3d 147, 149 (5th Cir. 2004)
- Krim v. Pcorder.com, 402 F.3d 489, 494 (5th Cir. 2005)
- Hopkins v. Wayside Schs., No. 23-50600, 2024 WL 3738478, at *4 (5th Cir. Aug. 9, 2024)
- Schaeffler v. United States, 889 F.3d 238, 242 (5th Cir. 2018)
- Exelon Wind 1, L.L.C. v. Nelson, 766 F.3d 380, 388 (5th Cir. 2014)
- Baylor All Saints Med. Ctr. v. Kennedy, 161 F.4th 298, 302 (5th Cir. 2025)
- Heckler v. Ringer, 466 U.S. 602, 615 (1984)
- Physician Hosps. of Am. v. Sebelius, 691 F.3d 649, 653 (5th Cir. 2012)
- Douglass v. United Servs. Auto. Ass'n, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc)

OPINION

UNITED STATES DISTRICT COURT March 06, 2026 SOUTHERN DISTRICT OF TEXAS Nathan Ochsner, Clerk HOUSTON DIVISION CHRISTOPHER MATTHEW THIERRY, § Plaintiff, § § v. § CIVIL ACTION NO. 4:25-cv-3765 § U.S. SECRETARY OF HEALTH AND HUMAN § SERVICES, § Defendant. § MEMORANDUM AND RECOMMENDATION Before the Court is Defendant U.S. Secretary of Health and Human Services’ Motion to Dismiss pro se Plaintiff Christopher Matthew Thierry’s Complaint for lack of subject matter jurisdiction.1 ECF 15.

Plaintiff did not file a timely response as required by Local Rules of the Southern District of Texas 7.3 and 7.4. The Court recommends that Defendant’s Motion to Dismiss be GRANTED. I. Background According to undisputed facts in the record, Plaintiff underwent oral surgery on June 13, 2024. ECF 13 at 65-66. He was billed $115.00 for an initial consultation and $1,656.90 for the surgery.

Id. Plaintiff submitted a claim for reimbursement to Medicare. Id. at 195-199. The Centers for Medicare and Medicaid Services 1 The District Judge referred this case to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(A) and (B), the Cost and Delay Reduction Plan under the Civil Justice Reform Act, and Federal Rule of Civil Procedure 72. ECF 4. ("CMS") denied his claim on initial review and a contractor upheld that decision on redetermination.

Plaintiff then submitted a request for reconsideration by a Medicare Qualified Independent Contractor (QIC), which the QIC received on November 4, 2024. Id. at 191-94. On November 11, 2024, the QIC sent Plaintiff a letter informing Plaintiff that any additional information he wished the QIC to review was required to be submitted within 14 days of the date of the letter.

Id. at 192. On December 16, 2024, the QIC sent Plaintiff a letter informing him that they needed additional information to conduct a thorough review and warning him that if the QIC did not receive the information by December 30, 2024 it would make a determination based on the current documentation submitted for review. Id. at 247- 48. Plaintiff received the letter but did not meet the deadline.

Id. at 6-7; 109. On January 1, 2025, the QIC issued a letter notifying Plaintiff of the QIC's unfavorable Medicare Reconsideration Decision. Id. at 120-21. The letter included instructions for appealing the Decision to an Administrative Law Judge within 60 days of receipt of the letter, which is presumed to be 5 days after the date of the letter. Id. On May 2, 2025, 122 days after the date of the letter and 127 days after the presumed date of receipt of the letter, Plaintiff submitted a Request for Administrative Law Judge (ALJ) Hearing or Review of Dismissal.

Id. at 115-18. The Request states only that he responded to letters as soon as he could. Id at 115. Plaintiff did not ask for leave to submit the request late or show any good cause for missing the deadline. Id. On May 8, 2025, the ALJ issued an Order of Dismissal because Plaintiff "did not provide a reason for the untimely filing of the request for hearing, and there is no indication of any limitations that prevented the Appellant from understanding the need to timely file the appeal, or from doing so.

As a result, there is insufficient evidence to establish good cause within the meaning of 42 C.F.R. § 405.942(b)(2) and (3) to extend the time period to file the request for hearing." Id. at 107. Plaintiff requested review by the Medicare Appeals Council arguing, without evidentiary support, that the response to his request for medical records from the surgeon was delayed and he has a "brain injury" resulting in "cognitive defects." Id. at 12-13.

On June 25, 2025 the Council issued an Order denying his request for review. Id. at 9-11. Plaintiff filed a Complaint in this Court on August 4, 2025 seeking review of the denial of Medicare benefits pursuant to 42 U.S.C. § 1395ff(b)(1), which incorporates 42 U.S.C. § 405(g) (the Social

Security Act provision governing judicial review). ECF 1. Defendant filed the pending Motion to Dismiss on December 12, 2025.

ECF 15. Plaintiff did not file a timely response and the Motion is now ripe for determination. It is not appropriate to grant the motion to dismiss solely based on Plaintiff's failure to respond but the Court will rule on the undisputed facts in the record before it. Watson v. U.S. ex rel. Lerma, 285 F. App'x 140, 143 (5th Cir. 2008); Arthurton v. CarMax Auto Fin., No. 4:25-CV-02708, 2025 WL 3542156, at *1 (S.D.

Tex. Nov. 17, 2025), report and recommendation adopted, No. 4:25-CV-02708, 2025 WL 3541693 (S.D. Tex. Dec. 5, 2025). II. Rule 12(b)(1) Standards When a defendant challenges subject matter jurisdiction, the court "is free to weigh the evidence and resolve factual disputes in order to satisfy itself that it has power to hear the case." Montez v. Dep't of the Navy, 392 F.3d 147, 149 (5th Cir.

2004); Krim v. Pcorder.com, 402 F.3d 489, 494 (5th Cir. 2005). The Court may consider any of the following in resolving a Rule 12(b)(1) motion: (1) the complaint alone; (2) the complaint supplemented by the undisputed facts evidenced in the record; or (3) the complaint supplemented by undisputed facts plus the court's resolution of disputed facts. Hopkins v. Wayside Schs., No. 23-50600, 2024 WL 3738478, at *4 (5th Cir.

Aug. 9, 2024); Schaeffler v. United States, 889 F.3d 238, 242 (5th Cir. 2018). When a Defendant files a motion under Rule 12(b)(1), the plaintiff bears the burden of establishing subject matter jurisdiction. Exelon Wind 1, L.L.C. v. Nelson, 766 F.3d 380, 388 (5th Cir. 2014). If the plaintiff fails to meet his burden, the case must be dismissed. Id. III. Analysis A. Plaintiff's case should be dismissed because he failed to exhaust his administrative remedies.

The CMS administers the Medicare Program under the Social Security Act. Under the Act, when a claim is denied by CMS (or its contractors) on initial review, redetermination, and reconsideration, a claimant may request an evidentiary hearing before an ALJ. 42 U.S.C. § 1395ff; 42 C.F.R. §§ 405.920, 405.940, 405.960 & 405.1000.

As explained above, the claimant must request an ALJ hearing within 60 days following receipt of the reconsideration decision, unless the ALJ determines good cause exists for a late request. See, e.g., 42 C.F.R. §§ 405.942(b), 405.1002(a)(1), 405.1014(e). Absent evidence to the contrary, the date of the claimant's receipt of the reconsideration decision is presumed to be 5 calendar days after the date on the reconsideration decision.

42 C.F.R. §§ 405.1002(a)(3), 405.1014(c)(1). If the ALJ renders an unfavorable decision, the claimant may request review by the Medicare Review Council, which may adopt, modify, or reverse the ALJ's decision. 42 C.F.R. §§ 405.1100(a), 405.1108(a)-(b). If the Council renders an unfavorable decision, the claimant may seek judicial review in federal court pursuant to 42 C.F.R. §§ 405.1130, 405(g). "Congress has divested courts of subject-matter jurisdiction on any claim

arising under the Medicare statute except as provided in 42 U.S.C. § 405(g), which is the 'sole avenue for judicial review for all 'claim[s] arising under' Medicare." Baylor All Saints Med.

Ctr. v. Kennedy, 161 F.4th 298, 302 (5th Cir. 2025) (quoting Heckler v. Ringer, 466 U.S. 602, 615 (1984)); Physician Hosps. of Am. v. Sebelius, 691 F.3d 649, 653 (5th Cir. 2012) ("Judicial review of [a [Medicare claim] is available only after a party first presents the claim to the Secretary and receives a final decision.").

In this case, Plaintiff did not make a timely request for hearing before an ALJ. ECF 13 at 107, 115-18. 42 U.S.C. § 405(g) limits judicial review to "any final decision... made after a hearing to which [the claimant] was a party." Baylor All Saints Med. Ctr., 161 F.4th at (holding that federal courts lack jurisdiction to adjudicate Medicare cases prior to the Secretary making a "final decision... made after a hearing to which he was a party," citing 42 U.S.C. § 405(g)).

Due to Plaintiff's untimely hearing request, no hearing was held before an ALJ and thus no final decision subject to judicial review, as defined by the Act, has been made. Therefore, Defendant's Motion to Dismiss should be granted and Plaintiff's case should be dismissed. B. Plaintiff's case should be dismissed because it does not meet the jurisdictional minimum amount in controversy.

While § 405(g) does not include a jurisdictional minimum for an appeal from a final decision of the Commissioner of Social Security, Congress chose to impose a jurisdictional minimum amount in controversy for judicial review of final decisions in the Medicare Act. 42 U.S.C. §§1395ff(b)(1)(E)(i), (iii).

For requests for judicial review filed on or after January 1, 2025, the jurisdictional minimum amount in controversy is $1,900.2 89 Fed. Reg. 79294-03, 2024 WL 4299304 (Sept. 27, 2024). Plaintiff represents his claim is for $1,771.90 ($1,656.90 for surgery plus $115 for a consultation).3 ECF 1 at 3; ECF 13 at 195-99.

Because Plaintiff's claim falls below the $1,900 minimum jurisdictional amount, this Court lacks jurisdiction to review the claim. IV. Conclusion and Recommendation For the reasons discussed above the Court RECOMMENDS that Defendant's Motion to Dismiss (ECF 15) be GRANTED and this case be dismissed without prejudice for lack of subject matter jurisdiction.

The Clerk of the Court shall send copies of the memorandum and recommendation to the respective parties, who will then have fourteen days to file written objections, pursuant to 28 U.S.C. § 636(b)(1)(C). Failure to file written objections within the time period provided will bar an aggrieved party from attacking the factual findings and legal conclusions on appeal.

Douglass v. United Servs. Auto. Ass'n, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc), superseded by statute on other grounds. 2 The statutory minimum for 2024 when his claim was

initially filed.with CMS was $1,840. 89 Fed. Reg. 79294-03, 2024 WL 4299304 (Sept. 27, 2024). 3 Defendant contends the amount of his claim is $1,656.90. ECF 15.

The difference is immaterial as both parties' contentions are under the $1,900 minimum. Signed on March 06, 2026, at Houston, Texas. Christina A. Bryan United States Magistrate Judge