

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE  
AT NASHVILLE, PART I

SEAN SMITH,	)	
	)	
<i>Petitioner,</i>	)	
	)	<b>Case No. 24-0074-I</b>
v.	)	
	)	<b>Chancellor Patricia Head Moskal</b>
TENNESSEE DEPARTMENT OF	)	
FINANCE & ADMINISTRATION,	)	
DIVISION OF TENNCARE; and	)	
	)	
STEPHEN SMITH, DIRECTOR OF	)	
TENNCARE, in his official capacity,	)	
	)	
<i>Respondents.</i>	)	

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RESPONDENTS' MOTION TO DISMISS

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Respondents, the Tennessee Department of Finance & Administration, Division of TennCare ("TennCare") and Stephen Smith, Director of TennCare ("Director") (jointly "Respondents"), move this Court to dismiss Petitioner's Complaint for two reasons: 1) lack of subject-matter jurisdiction pursuant to Tenn. R. Civ. P. 12.02(1) and 2) failure to state a claim pursuant to Tenn. R. Civ. P. 12.02(6). Pursuant to the exhaustion of administrative remedies doctrine, this Court does not have subject matter jurisdiction over any subject except a denial of coverage for outpatient physical therapy. However, Petitioner expressly disclaims that he is seeking relief for such denial. (Am. Compl. at ¶ 9). Accordingly, any relief he is seeking must first be administratively exhausted.

Tennessee courts recognize an exception to the administrative exhaustion doctrine when a plaintiff is challenging a rule, statute, or order as unconstitutional. Here, Petitioner does not challenge the facial constitutionality of a TennCare statute, rule, or order.

Pursuant to this motion and for the reasons stated in the attached memorandum, which is fully incorporated herein, Respondents move this Court to dismiss this suit for lack of subject matter jurisdiction and failure to state a claim. This motion is set for hearing on May 10, 2024 at 11:00 AM Central Time, or as soon thereafter as the motion may be heard, to be conducted via remote video conference.

Respectfully Submitted,

JONATHAN SKRMETTI  
ATTORNEY GENERAL & REPORTER

/s/ Haylie C. Robbins

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## CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of this motion, memorandum in support, and all attached exhibits have been served via email and electronic filing on April 22, 2024, upon the following recipients:

COUNSEL OF RECORD	PARTY REPRESENTED
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/s/ Haylie C. Robbins  
HAYLIE ROBBINS  
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