

November 30, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-11214

JOHANNA MARESH, as Next Friend of Regina Maresh

Plaintiff-Appellant

v.

TOMMY G THOMPSON, SECRETARY, DEPARTMENT OF HEALTH & HUMAN
SERVICES

Defendant-Appellee

Appeal from the United States District Court
for the Northern District of Texas, Dallas
No. 3:03-CV-1018-H

Before KING, Chief Judge, and JOLLY and DENNIS, Circuit Judges.

PER CURIAM:*

Plaintiff-Appellant Johanna Maresh appeals the district court's dismissal of her claims for lack of subject matter jurisdiction. The district court concluded that Maresh failed to exhaust her administrative remedies. See Maresh ex rel Maresh v. Thompson, 290 F. Supp. 2d 737, 737-39 (N.D. Tex. 2003). Having reviewed the record and fully considered the parties' arguments,

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

we agree with the Secretary that Maresh's challenge to the Secretary's overpayment determination must be presented administratively before it is reviewed in the district court. Since Maresh filed her district court suit before exhausting her administrative remedies, the district court lacked subject matter jurisdiction over her case. Accordingly, we AFFIRM the district court's judgment for essentially the same reasons stated in its Memorandum Opinion and Order.