

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 24 2026

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

RODOLFO VELASQUEZ,

Plaintiff - Appellant,

v.

FRANK BISIGNANO, Commissioner of
Social Security,

Defendant - Appellee.

No. 24-4003

D.C. No.

3:24-cv-00489-AMO

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Araceli Martinez-Olguin, District Judge, Presiding

Submitted August 24, 2026**

Before: O'SCANNLAIN, SILVERMAN, and RAWLINSON, Circuit Judges.

Rodolfo Velasquez appeals pro se from the district court's order dismissing the first amended complaint for lack of subject matter jurisdiction. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo the dismissal for

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

lack of subject matter jurisdiction, *Do Sung Uhm v. Humana, Inc.*, 620 F.3d 1134, 1140 (9th Cir. 2010), and we affirm.

The district court did not err in dismissing the first amended complaint. Velasquez’s claim for Medicare Part B benefits “arises under” the Medicare Act. Therefore, judicial review is exclusively available pursuant to 42 U.S.C. § 405(g), after a final administrative decision. *Heckler v. Ringer*, 466 U.S. 602, 614-15 (1984); *Global Rescue Jets, LLC v. Kaiser Found. Health Plan, Inc.*, 30 F.4th 905, 912-13 (9th Cir. 2022); *Bass v. Soc. Sec. Admin.*, 872 F.2d 832, 833 (9th Cir. 1989) (per curiam). On its face, the claim was unexhausted because the first amended complaint alleged that the Social Security Administration had not yet resolved the request for reconsideration. *See* 42 U.S.C. § 405(g); *Bass*, 872 F.2d at 833 (summarizing the statutory exhaustion steps).

Nor could exhaustion be excused as collateral to a claim for Medicare benefits. Velasquez expressly sought to secure Medicare Part B benefits. *See Bass*, 872 F.2d at 833 (setting forth the requirements to waive exhaustion, including the requirement that the claim be “collateral to a substantive claim of entitlement”).

Because Velasquez did not exhaust his administrative remedies pursuant to 42 U.S.C. § 405(g) and because he could not satisfy the test to excuse exhaustion, the district court properly dismissed the first amended complaint for lack of

jurisdiction. *Global Rescue Jets*, 30 F.4th at 912-13, 919-20; *Bass*, 872 F.2d at 833.

The administrative reconsideration decision, which was issued after the district court's dismissal, does not establish that the district court's dismissal was erroneous or require remand. The claim must be fully exhausted before the lawsuit is filed. *See* 42 U.S.C. § 405(g) (allowing judicial review "after" a final decision); *Do Sung Uhm*, 620 F.3d at 1140 (explaining that "a final decision is rendered only after the individual has pressed his claim through all levels of administrative review") (internal quotation marks omitted).

Velasquez's motions (Dkt. Entry Nos. 18 & 26), which appear to request a remand to the district court, are DENIED.

AFFIRMED.