**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT,
IN AND FOR LEON COUNTY, FLORIDA**

D.D. & J.D. by and through their next friend JOCELYN DURRANT and D.M. by and through his next friend REBECCA MORRIS,
Plaintiff,

vs. Case No.: 2026 CA 520

FLA. HEALTHY KIDS CORPORATION and FLA. AGENCY FOR HEALTH CARE ADMIN.,
Defendant.
_____/

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

THIS MATTER came before the Court on July 21, 2026, for argument on Petitioners' Complaint/Petition for Writ of Mandamus, filed on March 9, 2026. The Court issued an order to show cause on why the petition should not be granted. Respondents' filed a Response to Order to Show Cause on May 29, 2026, and Petitioners' filed a Reply on June 15, 2026. No evidentiary objections were raised to the Court considering all of the exhibits attached to the parties' respective filings. Having reviewed the filings and the record, and being otherwise fully advised, the Court finds and orders as follows:

Petitioners seek a writ of mandamus compelling the Florida Agency for Health Care Administration (AHCA) and the Florida Healthy Kids Corporation (FHKC) to implement the increase of the Florida KidCare/CHIP income eligibility threshold to 300% of the federal poverty level (FPL) and to evaluate Petitioners' eligibility using that threshold.

Respondents assert statutory bars to the writ, that there is no clear ministerial duty given conditional federal approval and pending federal litigation over that approval, and failure to exhaust administrative remedies under Rule 59G-14.001, Fla. Admin. Code. Petitioners further assert that administrative processes would be futile and inadequate.

Legal Standard for Mandamus

A writ of mandamus requires a petitioner to establish: (1) a clear legal right to the requested relief; (2) an indisputable ministerial duty on the part of the respondent to perform the requested act; and (3) the absence of an adequate remedy at law.

Analysis

I. Failure to Exhaust Administrative Remedies

Rule 59G-14.001 provides a structured, multi-step dispute review and grievance process for adverse determinations, culminating in AHCA's final written decision within 30 days, and binding effect upon applicable program components. Petitioners did not initiate or exhaust this administrative process, despite acknowledging its availability. On this record, Petitioners have not pleaded or proved exhaustion, nor have they developed a record showing the administrative remedy is unavailable or inadequate to address their issues relating to eligibility determinations and program implementation as applied to them.

Petitioners ask the Court to speculate that the decision before Respondents is already determined by their public positions, but the Court does not find exhaustion to be properly applied so narrowly in this case. *State Dept. of Envtl. Prot. v. PZ Const. Co., Inc.*, 633 So. 2d 76, 79 (Fla. 3d DCA 1994) ("A court should not infer that an administrative remedy is not available in the absence of a showing that the party seeking relief has pursued the administrative remedy without success."). Rather, Petitioners should make their record before the agency before requiring the Court to issue an extraordinary remedy of the writ of mandamus. *See, e.g.*, *Pretzer v. Swearingen*, 394 So. 3d 175 (Fla. 1st DCA 2024) (finding no exhaustion requirement where specific cause of action created to challenge preempted firearm regulations).

II. Statutory Bars

Respondents argue that the statutory bars in sections 409.813(2) and 624.91(4), Florida Statutes, preclude this mandamus petition, each of which uses very similar language:

> Except for Title XIX-funded Florida Kidcare program coverage under the Medicaid program, coverage under the Florida Kidcare program is not an entitlement. No cause of action shall arise against the state, the department, the Department of Children and Families, or the agency for failure to make health services available to any person under ss. 409.810-409.821.

§ 409.813(2), Fla. Stat.

> NONENTITLEMENT.—Nothing in this section shall be construed as providing an individual with an entitlement to health care services. No cause of action shall arise against the state, the Florida Healthy Kids Corporation, or a unit of local government for failure to make health services available under this section.

§ 624.91(4), Fla. Stat.

Petitioners argue these provisions do not bar their mandamus petitions. What matters in resolving the scope of the statutory bars is their respective text. First, there is no reasonable

dispute that Respondents are entities included within the statutory bars. Second, the operative scope language of the statutory bars—"cause of action" and "failure to make health services available"—is the same in each section. Petitioners are clearly challenging Respondents' failure to make health services available within the meaning of these provisions in that they are challenging the denial of coverage. "Coverage" is specifically stated to not being an entitlement as a predicate to stating there is no cause of action for failure to make health services available in section 409.813. Moreover, health services is a broader term than coverage decisions, and thus, Petitioners' mandamus is included within the statutory bars.

While Petitioners may regard that decision as unfair, the Court does not find that they are without remedy, although the Legislature could have barred a remedy if it chose to. Instead, Petitioners simply do not have a cause of action in this Court regarding their coverage decisions. However, the agency provides them with administrative remedies, which seem like they are appealable under Chapter 120 once they receive final agency action. *See, e.g.*, Fla. R. App. P. 9.190; § 120.68, Fla. Stat.; *A.C. v. Agency for Health Care Admin*., 322 So. 3d 1182 (Fla. 3d DCA 2019) (appeal from termination of occupational therapy services).

III. No Clear and Indisputable Ministerial Duty

The parties dispute the status of any federal approval, with Petitioners arguing the approval documents are dispositive and Respondents describing it more as a contract negotiation, requiring a meeting of the minds. Florida law required approval through one of two processes as follows: "Section 5, ch. 2024-227, provides that '[i]mplementation of chapter 2023-277, Laws of Florida, by the Agency for Health Care Administration and the Florida Healthy Kids Corporation is contingent upon federal approval through a Medicaid waiver or a state plan amendment. This section shall take effect upon this act becoming a law.'" § 409.814, Fla. Stat. at n.1.

Florida chose the Medicaid waiver route and submitted a plan. The federal government, through CMS, did not accept that plan, but offered an approval so long as Florida applied Special Term and Condition 5.2. Florida takes the position that that term creates an entitlement and is therefore a violation of Florida law. Petitioners take the position that is all nonsense and a delay tactic. Suffice it to say, the record as presented does not establish a clear legal duty to apply the 300 percent FPL limits. Perhaps after the federal litigation, there may be a clear legal duty, but at this stage, the Court finds that Petitioners also fail on the merits.

It is, therefore, ORDERED AND ADJUDGED:

A. The Petition for Writ of Mandamus is DENIED.

B. This is meant to be a final appealable order.

C. As no further judicial action is required, the Clerk is directed to CLOSE this case.

DONE AND ORDERED in Tallahassee, Florida on July 23, 2026.

JOSHUA HAWKES
Circuit Judge

Copies to:
Parties via e-filing portal