
42 C.F.R. § 405.1140

Council review of ALJ decision in a case remanded by a Federal district court.

- (a) *General rules.* (1) In accordance with § 405.1138, when a case is remanded by a Federal district court for further consideration and the Council remands the case to an ALJ or attorney adjudicator, a decision subsequently issued by the ALJ becomes the final decision of the Secretary unless the Council assumes jurisdiction.
- (2) The Council may assume jurisdiction based on written exceptions to the decision of the ALJ or attorney adjudicator that a party files with the Council or based on its authority under paragraph (c) of this section.
- (3) The Council either makes a new, independent decision based on the entire record that will be the final decision of the Secretary after remand, or remands the case to an ALJ or attorney adjudicator for further proceedings.
- (b) *A party files exceptions disagreeing with the decision of the ALJ or attorney adjudicator.* (1) If a party disagrees with an ALJ or attorney adjudicator decision described in paragraph (a) of this section, in whole or in part, he or she may file exceptions to the decision with the Council. Exceptions may be filed by submitting a written statement to the Council setting forth the reasons for disagreeing with the decision of the ALJ or attorney adjudicator. The party must file exceptions within 30 calendar days of the date the party receives the decision of the ALJ or attorney adjudicator or submit a written request for an extension within the 30 calendar day period. The Council will grant a timely request for a 30 calendar day extension. A request for an extension of more than 30 calendar days must include a statement of reasons as to why the party needs the additional time and may be granted if the Council finds good cause under the standard established in § 405.942(b)(2) or (b)(3).

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