
42 C.F.R. § 405.1875

Administrator review.

(a) *Basic rule: Time limit for rendering Administrator decisions, Board decisions, and action subject to immediate review.* The Administrator, at his or her discretion, may immediately review any decision of the Board specified in paragraph (a)(2) of this section. Nonfinal decisions or actions by the Board are not immediately reviewable, except as provided in paragraph (a)(3) of this section. The Administrator may exercise this discretionary review authority on his or her own motion, or in response to a request from: a party to the Board appeal; CMS; or, in the case of a matter specified in paragraph (a)(3)(i) or (a)(3)(ii) of this section, another affected nonparty to a Board appeal. All requests for Administrator review and any other submissions to the Administrator under paragraph (c) of this section must be sent to the Office of the Attorney Advisor. The Office of the Attorney Advisor must examine each Board decision specified in paragraph (a)(2) of this section, and each matter described in § 405.1845(h)(3), § 405.1853(e)(6)(ii), or § 405.1857(d)(2) of this subpart, of which it becomes aware, together with any review requests or any other submission made in accordance with the provisions of this section, in order to assist the Administrator's exercise of this discretionary review authority. The Board is required to send to the Office of the Attorney Advisor a copy of each decision specified in paragraphs (a)(2)(i), (ii), and (iii) of this section upon issuance of the decision.

(1) The date of rendering any decision after the review by the Administrator must be no later than 60 days after the date of receipt by the provider of a reviewable Board decision or action. For purposes of this section, the date of rendering is the date the Administrator signs the decision, and not the date the decision is mailed or otherwise transmitted to the parties.

(2) The Administrator may immediately review:

(i) A Board hearing decision (as described in § 405.1871 of this subpart).

(ii) A Board dismissal decision (as described in §§ 405.1836(e)(1) and (e)(2), 405.1840(c)(2) and (c)(3), 405.1868(d)(1) and (d)(2) of this subpart).

(iii) A Board EJR decision, but only the question of whether there is Board jurisdiction over a specific matter at issue in the decision; the Administrator may not review the Board's determination in a decision of its authority to decide a legal question relevant to the matter at issue (as described in § 405.1842(h) of this subpart).

(iv) Any other Board decision or action deemed to be final by the Administrator.

(v) If the Administrator reviews a Board hearing decision regarding a specific item, or for a Board EJR decision the question of whether there is Board jurisdiction over a specific item, the Administrator's review of such a hearing decision or EJR decision, as applicable, will include, and any decision issued by the Administrator (under paragraph (e) of this section) will address, the Board's specific findings of fact and conclusions of law in such hearing decision or EJR decision (as prescribed in § 405.1873(b)(1) and (d)) on the question of whether the

provider's cost report included an appropriate claim for the specific item under appeal (as prescribed in § 413.24(j) of this chapter).

This document is only available to subscribers. Please log in or purchase access.

[Purchase Login](#)