§ 498.88 Decision or remand by the Departmental Appeals Board.

(a) When the Departmental Appeals Board reviews an ALJ’s decision or order of dismissal, or receives a case remanded by a court, the Board may either issue a decision or remand the case to an ALJ for a hearing and decision or a recommended decision for final decision by the Board.

(b) In a remanded case, the ALJ initiates additional proceedings and takes other actions as directed by the Board in its order of remand, and may take other action not inconsistent with that order.

(c) Upon completion of all action called for by the remand order and any other consistent action, the ALJ promptly makes a decision or, as specified by the Board, certifies the case to the Board with a recommended decision.

(d) The parties have 20 days from the date of a notice of a recommended decision to submit to the Board any exception, objection, or comment on the findings of fact, conclusions of law, and recommended decision.

(e) If the Board does not remand the case to an ALJ, the following rules apply:

(i) The Board’s decision is binding unless—

(1) The affected party has a right to judicial review and timely files a civil action in a United States District Court or, in the case of a civil money penalty, in a United States Court of Appeals; or

(2) The Board reopens and revises its decision in accordance with § 498.102.

(b) Right to judicial review. Section 498.5 specifies the circumstances under which an affected party has a right to seek judicial review.

(c) Special rules: Civil money penalty—

(1) Finality of Board’s decision. When CMS imposes a civil money penalty, notice of the Board’s decision (or denial of review) is the final administrative action that initiates the 60-day period for seeking judicial review.

(2) Timing for collection of civil money penalty. For SNFs and NFs, the rules that apply are those set forth in subpart F of part 488 of this chapter.

§ 498.90 Effect of Departmental Appeals Board decision.

(a) General rule. The Board’s decision is binding unless—

(b) Right to judicial review. Section 498.5 specifies the circumstances under which an affected party has a right to seek judicial review.

§ 498.95 Extension of time for seeking judicial review.

(a) Any affected party that is dissatisfied with an Departmental Appeals Board decision and is entitled to judicial review must commence civil action within 60 days from receipt of the notice of the Board’s decision (as determined under § 498.22(c)(3)), unless the Board extends the time in accordance with paragraph (c) of this section.

(b) The request for extension must be filed in writing with the Board before the 60-day period ends.

(c) For good cause shown, the Board may extend the time for commencing civil action.

Subpart F—Reopening of Decisions Made by Administrative Law Judges or the Departmental Appeals Board

§ 498.100 Basis, timing, and authority for reopening an ALJ or Board decision.

(a) Basis and timing for reopening. An ALJ or Departmental Appeals Board decision may be reopened, within 60 days of the decision, if—

(1) The decision is contrary to the findings of fact and conclusions of law in the original decision.

(2) The decision is contrary to law.

(3) CMS is not in compliance with applicable administrative or procedural requirements.

(4) Any other extraordinary circumstance exists.