

XVIII, and XIX of the Social Security Act and applicable implementing regulations, are binding on ALJs and attorney adjudicators, and the Council.

(b) CMS Rulings are published under the authority of the CMS Administrator. Consistent with § 401.108 of this chapter, rulings are binding on all CMS components, and on all HHS components that adjudicate matters under the jurisdiction of CMS.

(c) Precedential decisions designated by the Chair of the Departmental Appeals Board in accordance with § 401.109 of this chapter are binding on all CMS components, and all HHS components that adjudicate matters under the jurisdiction of CMS.

[82 FR 5137, Jan. 17, 2017]

§ 423.2100 Medicare Appeals Council review: general.

(a) An enrollee who is dissatisfied with an ALJ's or attorney adjudicator's decision or dismissal may request that the Council review the ALJ's or attorney adjudicator's decision or dismissal.

(b) When the Council reviews an ALJ's or attorney adjudicator's written decision, it undertakes a de novo review.

(c) The Council issues a final decision, dismissal order, or remands a case to the ALJ or attorney adjudicator no later than the end of the 90 calendar day period beginning on the date the request for review is received (by the entity specified in the ALJ's or attorney adjudicator's written notice of decision), unless the 90 calendar day period is extended as provided in this subpart or the enrollee requests expedited Council review.

(d) If an enrollee requests expedited Council review, the Council issues a final decision, dismissal order or remand as expeditiously as the enrollee's health condition requires, but no later than the end of the 10 calendar day period beginning on the date the request for review is received (by the entity specified in the ALJ's or attorney adjudicator's written notice of decision), unless the 10 calendar day period is extended as provided in this subpart.

[82 FR 5137, Jan. 17, 2017, as amended at 84 FR 19874, May 7, 2019]

§ 423.2102 Request for Council review when ALJ or attorney adjudicator issues decision or dismissal.

(a)(1) An enrollee may request Council review of a decision or dismissal issued by an ALJ or attorney adjudicator if the enrollee files a written request for a Council review within 60 calendar days after receipt of the ALJ's or attorney adjudicator's written decision or dismissal.

(2) An enrollee may request that Council review be expedited if the appeal involves an issue specified in § 423.566(b) but does not include solely a request for payment of Part D drugs already furnished.

(i) If an enrollee is requesting that the Council review be expedited, the enrollee submits an oral or written request within 60 calendar days after the receipt of the ALJ's or attorney adjudicator's written decision or dismissal. A prescribing physician or other prescriber may provide oral or written support for an enrollee's request for expedited review.

(ii) The Council must document all oral requests for expedited review in writing and maintain the documentation in the case files.

(3) For purposes of this section, the date of receipt of the ALJ's or attorney adjudicator's written decision or dismissal is presumed to be 5 calendar days after the date of the notice of the decision or dismissal, unless there is evidence to the contrary.

(4) The request is considered as filed on the date it is received by the entity specified in the notice of the ALJ's or attorney adjudicator's action.

(b) An enrollee requesting a review may ask that the time for filing a request for Council review be extended if—

(1) The request for an extension of time is in writing or, for expedited reviews, in writing or oral. The Council must document all oral requests in writing and maintain the documentation in the case file.

(2) The request explains why the request for review was not filed within the stated time period. If the Council finds that there is good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, the Council uses the