

standards outlined at § 405.942(b)(2) and (3) of this chapter.

(c) An enrollee does not have the right to seek Council review of an ALJ's or attorney adjudicator's remand to an IRE, or an ALJ's or attorney adjudicator's affirmation of an IRE's dismissal of a request for reconsideration, or dismissal of a request to review an IRE dismissal.

[82 FR 5137, Jan. 17, 2017]

§ 423.2106 Where a request for review may be filed.

When a request for a Council review is filed after an ALJ or attorney adjudicator has issued a written decision or dismissal, the request for review must be submitted to the entity specified in the notice of the ALJ's or attorney adjudicator's action. If the request for review is timely filed with an entity other than the entity specified in the notice of the ALJ's or attorney adjudicator's action, the Council's adjudication period to conduct a review begins on the date the request for review is received by the entity specified in the notice of the ALJ's or attorney adjudicator's action. Upon receipt of a request for review from an entity other than the entity specified in the notice of the ALJ's or attorney adjudicator's action, the Council sends written notice to the enrollee of the date of receipt of the request and commencement of the adjudication timeframe.

[74 FR 65363, Dec. 9, 2009, as amended at 82 FR 5137, Jan. 17, 2017]

§ 423.2108 Council Actions when request for review is filed.

(a) *General.* Except as specified in paragraph (c) of this section, when an enrollee requests that the Council review an ALJ's or attorney adjudicator's decision, the Council will review the ALJ's or attorney adjudicator's decision de novo. The enrollee requesting review does not have a right to a hearing before the Council. The Council will consider all of the evidence admitted into the administrative record. Upon completion of its review, the Council may adopt, modify, or reverse the ALJ's or attorney adjudicator's decision or remand the case to the ALJ or attorney adjudicator for further pro-

ceedings. Unless the Council's review is expedited as provided in paragraph (d) of this section, the Council must issue its action no later than 90 calendar days after receiving the request for review, unless the 90 calendar day period has been extended as provided in this subpart.

(b) *Review of ALJ's or attorney adjudicator's dismissal of a request for a hearing.* When an enrollee requests that the Council review an ALJ's or attorney adjudicator's dismissal of a request for a hearing, the Council may deny review or vacate the dismissal and remand the case to the ALJ or attorney adjudicator for further proceedings.

(c) *Council dismissal of request for review.* The Council will dismiss a request for review when the individual or entity requesting review does not have a right to a review by the MAC, or will dismiss the request for a hearing for any reason that the ALJ or attorney adjudicator could have dismissed the request for hearing.

(d) *Expedited reviews.* (1) *Standard for expedited reviews.* The Council must provide an expedited review 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, enrollee's prescribing physician or other prescriber indicates, or the Council determines that applying the standard timeframe for making a decision may seriously jeopardize the enrollee's life or health or ability to regain maximum function. The Council may consider this standard as met if a lower level adjudicator has granted a request for an expedited appeal.

(2) *Grant of a request.* If the Council grants a request for expedited review, the Council must:

(i) Make this decision within 5 calendar days of receipt of the request for expedited review;

(ii) Give the enrollee prompt oral notice of this decision; and

(iii) Issue a 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