

§ 1149.24 What happens if my motion to reopen is denied?

(a) You may appeal the decision denying a motion to reopen to the authority head by filing a notice of appeal with the authority head within 15 days after the ALJ denies the motion. The timely filing of a notice of appeal must stay the initial decision until the authority head decides the issue.

(b) If you file a timely notice of appeal with the authority head, the ALJ must forward the record of the proceeding to the authority head.

(c) The authority head must decide promptly, based solely on the record previously before the ALJ, whether extraordinary circumstances excuse your failure to file a timely answer.

(d) If the authority head decides that extraordinary circumstances excused your failure to file a timely answer, the authority head must remand the case to the ALJ with instructions to grant you an opportunity to answer.

(e) If the authority head decides that your failure to file a timely answer is not excused, the authority head must reinstate the initial decision of the ALJ, which becomes final and binding upon the parties 30 days after the authority head issues such a decision.