

§ 1174.38 Appeal to the authority head.

(a) A defendant has no right to appear personally, or through a representative, before the authority head.

(b) There is no right to appeal any interlocutory ruling.

(c) The authority head will not consider any objection or evidence that was not raised before the ALJ unless the defendant demonstrates that extraordinary circumstances excuse the failure to object. If the defendant demonstrates to the authority head's satisfaction that extraordinary circumstances prevented the presentation of evidence at the hearing, and that the additional evidence is material, the authority head may remand the matter to the ALJ for consideration of the additional evidence.

(d) The authority head may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment that the ALJ imposed in the initial decision or reconsideration decision.

(e) The authority head will promptly serve each party to the appeal and the ALJ with a copy of the decision. This decision must contain a statement describing the right of any person, against whom a penalty or assessment has been made, to seek judicial review.