

498.83 Departmental Appeals Board action on request for review.

(a) Request by CMS or the OIG. The Departmental Appeals Board may dismiss, deny, or grant a request made by CMS or the OIG for review of an ALJ decision or dismissal.

(b) Request by the affected party. The Board will grant the affected party's request for review unless it dismisses the request for one of the following reasons:

(1) The affected party requests dismissal of its request for review.

(2) The affected party did not file timely or show good cause for late filing.

(3) The affected party does not have a right to review.

(4) A previous determination or decision, based on the same facts and law, and regarding the same issue, has become final through judicial affirmance or because the affected party failed to timely request reconsideration, hearing, Board review, or judicial review, as appropriate.

(c) Effect of dismissal. The dismissal of a request for Departmental Appeals Board review is binding and not subject to further review.

(d) Review panel. If the Board grants a request for review of the ALJ's decision, the review will be conducted by a panel of at least two members of the Board, designated by the Chairperson or Deputy Chairperson, and one individual designated by the Secretary from the U.S Public Health Service.