

I-2-8-18. Administrative Law Judge Decision When Case Remanded by Court

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A. General

If the Appeals Council (AC) remands a case to the hearing level after a court remand, it generally vacates the entire administrative law judge (ALJ) decision, and the ALJ must consider all pertinent issues de novo. When the AC vacates an ALJ decision in an initial entitlement case, the AC will usually direct that the ALJ offer the claimant an opportunity for a new hearing and issue a new decision in the case. The ALJ will generally decide the remanded issues through the date of the new hearing decision or, in title II cases involving an expired date last insured, through the date of last insured status. When appropriate, the ALJ may issue a recommended decision. See Hearings, Appeals, and Litigation Law (HALLEX) manual I-2-8-15.

The claimant may appeal an ALJ's decision after a court remand by filing written exceptions within 30 days of the date of the ALJ's decision (or within the time allowed by the AC after permitting an extension of time). See 20 CFR 404.984 (b) and 416.1484(b). See also HALLEX I-4-8-20. Additionally, the AC may assume jurisdiction of the ALJ's decision under its own motion authority within 60 days of the date of the ALJ's decision. See 20 CFR 404.969 and 416.1469, and HALLEX I-3-6-1.

NOTE: If the ALJ determines that the criteria for a dismissal are present, the ALJ will follow the instructions in HALLEX I-2-4-37. However, when the case was remanded by the court under sentence six of sections 205(g) and 1631(c) of the Social Security Act, an ALJ may not dismiss the request for hearing even when the usual dismissal criteria are present. Rather, the ALJ will issue a decision. See HALLEX I-2-4-37.

B. ALJ Actions

For hearing office (HO) staff actions on receipt of a case remanded by a court, see HALLEX I-2-1-59.

If the ALJ receives additional evidence in a court remand case, the ALJ will use the instructions in HALLEX I-2-6-56 and I-2-6-58 with regard to admitting and exhibiting the evidence.

The usual procedures apply to drafting the decision. However, the ALJ will ensure that the decision specifically addresses issues relating to the court and AC remand directives.

C. Routing a Paper Claim(s) File

If a court remand claim(s) file is paper, routing depends on whether the decision is unfavorable, partially favorable, or fully favorable. HO staff will route a paper claim(s) file as follows:

- If the decision is unfavorable, the HO staff will send the claim(s) file to the Social Security Administration's National Records Center, as described in HALLEX I-2-1-10 C.1.;
- If the decision is partially favorable, the HO staff will forward the claim(s) file to the effectuating component; or
- If the decision is fully favorable, the HO will forward the claim(s) file to the effectuating component and send a copy of the fully favorable decision to the appropriate Office of the General Counsel (OGC) office.

D. Representative(s) Fee

HALLEX I-1-2 sets forth detailed instructions for processing representative fees. An ALJ will first evaluate whether he or she has the authority to authorize the fee, as set forth in HALLEX I-1-2-6. When the ALJ does have authority to authorize a fee, the ALJ will only authorize a fee for services provided before the agency. See HALLEX I-1-2-5.

In some instances, OGC may request a copy of the fee authorized to a representative for administrative services. When requested, HO staff will provide a copy to OGC as quickly as possible.