

**§ 405.1138 Case remanded by a Federal district court.**

When a Federal district court remands a case to the Secretary for further consideration, unless the court order specifies otherwise, the MAC, acting on behalf of the Secretary, may make a decision, or it may remand the case to an ALJ with instructions to take action and either issue a decision, take other action, or return the case to the MAC with a recommended decision. If the MAC remands a case, the procedures specified in § 405.1140 will be followed.

**§ 405.1140 MAC review of ALJ decision in a case remanded by a Federal district court.**

(a) *General rules.* (1) In accordance with § 405.1138, when a case is remanded by a Federal district court for further consideration and the MAC remands the case to an ALJ, a decision subsequently issued by the ALJ becomes the final decision of the Secretary unless the MAC assumes jurisdiction.

(2) The MAC may assume jurisdiction based on written exceptions to the decision of the ALJ that a party files with the MAC or based on its authority under paragraph (c) of this section.

(3) The MAC either makes a new, independent decision based on the entire record that will be the final decision of the Secretary after remand, or remands the case to an ALJ for further proceedings.

(b) *A party files exceptions disagreeing with the decision of the ALJ.* (1) If a party disagrees with an ALJ decision described in paragraph (a) of this section, in whole or in part, he or she may file exceptions to the decision with the MAC. Exceptions may be filed by submitting a written statement to the MAC setting forth the reasons for disagreeing with the decision of the ALJ. The party must file exceptions within 30 days of the date the party receives the decision of the ALJ or submit a written request for an extension within the 30-day period. The MAC will grant a timely request for a 30-day extension. A request for an extension of more than 30 days must include a statement of reasons as to why the party needs the additional time and may be granted if the MAC finds good cause under

the standard established in § 405.942(b)(2) or (b)(3).

(2) If written exceptions are timely filed, the MAC considers the party's reasons for disagreeing with the decision of the ALJ. If the MAC concludes that there is no reason to change the decision of the ALJ, it will issue a notice addressing the exceptions and explaining why no change in the decision of the ALJ is warranted. In this instance, the decision of the ALJ is the final decision of the Secretary after remand.

(3) When a party files written exceptions to the decision of the ALJ, the MAC may assume jurisdiction at any time. If the MAC assumes jurisdiction, it makes a new, independent decision based on its consideration of the entire record adopting, modifying, or reversing the decision of the ALJ or remanding the case to an ALJ for further proceedings, including a new decision. The new decision of the MAC is the final decision of the Secretary after remand.

(c) *MAC assumes jurisdiction without exceptions being filed.* (1) Any time within 60 days after the date of the decision of the ALJ, the MAC may decide to assume jurisdiction of the case even though no written exceptions have been filed.

(2) Notice of this action is mailed to all parties at their last known address.

(3) The parties will be provided with the opportunity to file briefs or other written statements with the MAC about the facts and law relevant to the case.

(4) After the briefs or other written statements are received or the time allowed (usually 30 days) for submitting them has expired, the MAC will either issue a final decision of the Secretary affirming, modifying, or reversing the decision of the ALJ, or remand the case to an ALJ for further proceedings, including a new decision.

(d) *Exceptions are not filed and the MAC does not otherwise assume jurisdiction.* If no exceptions are filed and the MAC does not assume jurisdiction of the cases within 60 days after the date of the ALJ's decision, the decision of the ALJ becomes the final decision of the Secretary after remand.