

.10 Hearing Decision Implementation - Preparing and Submitting a Petition to Review

REVISION 41
(04/01/16 - 05/31/16)

When there is disagreement with the [Office of Appeals](#) hearing decision, both the appellant and the Appeals Processing Unit (APU) have the right to appeal the decision.

NA EXCEPTION

FAA cannot appeal hearing decisions per federal regulations.

NOTE The decision from the Office of Appeals must be applied even when it conflicts with policy.

When the APU is in disagreement they must notify the Policy Support Team (PST) via e-mail within one [workday\(g\)](#) from receipt of the hearing decision notice.

APU notification must contain the following information:

- The appellant's name and Social Security Number.
- AZTECS case number or HEAplus Customer ID number.
- The appeal number.
- The mail date shown on the hearing decision.
- A copy of the hearing decision notice that is being appealed.
- Written explanation as to why the Hearing Officer's decision should be reviewed by the Appeals Board. Include FAA Policy Manual references and any other evidence to support the explanation.

WARNING

DO NOT take negative action on the budgetary unit's benefits while an Appeals Board decision is pending. (See [Adjusting Benefits](#))

The APU is responsible for assigning a contact person to handle [Appeals Board](#) issues in a timely manner.

APU immediately sends the participant the Appeal of Fair Hearing Decision (C837) notice. This notice allows the participant to choose not to continue their benefits during the appeal process. Give the participant through the 9th calendar day from the decision date to respond. APU follows the Judge's orders on the 10th calendar day when no response is received by the participant.

WARNING

When the participant receives a notice of discontinuance and files a FH before the effective date of closure, they are eligible for continued benefits.

When the Administrative Law Judge remands the issue back to the local office for a new determination, the participant has the option to file a FH on the new decision. When the participant files a FH on the new decision, the participant is entitled to request continued benefits under the new timeframe.

No further action is required by the APU unless notified by PST.

The PST is responsible for designating a staff person to review all requests for Petition to Review. The designated PST member will submit an Interoffice Memo to the Attorney General's office citing the appropriate legal references and a summary of why the decision should be appealed. This will be submitted within 10 calendar days from the date of the decision that is being appealed.

The Attorney General's office will submit a [Petition to Review](#) to the Office of Appeals and will represent the Department in the appeals board hearing.

When the Appeals Board rules in the Department's favor the participant could be responsible for an overpayment. When the Appeals Board does not rule in the Department's favor the APU will take the necessary action on the case.