



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Departmental Appeals Board
Appellate Division, MS-6127
Room G-644, Cohen Building
330 Independence Avenue, SW
Washington, D.C. 20201

RETURN RECEIPT REQUESTED

Vladimir Kirkorov, M.D.
21 Bennett Pl.
Staten Island, New York 10312

and

INTER-OFFICE MAIL - RETURN RECEIPT REQUESTED

David M. Blank, Esq.
Associate Counsel
Office of Counsel to the Inspector General
330 Independence Avenue, S.W.
Room 5527, Cohen Building
Washington, D.C. 20201

Re: Vladimir Kirkorov, M.D. v. The
Inspector General
DAB CR1732 (CR Docket No.
C-07-664)
App. Div. Docket No. A-08-66
Decision No. 2164
Dated: March 24, 2008

DETERMINATION TO DECLINE REVIEW

Dr. Kirkorov and Mr. Blank:

We have received the appeal of Vladimir Kirkorov, M.D. of the Administrative Law Judge decision identified above (ALJ Decision). Dr. Kirkorov submitted documents with his appeal, some of which were not presented to the ALJ. The regulations governing appeals of exclusions by the Inspector General state:

If any party demonstrates to the satisfaction of the DAB that additional evidence not presented at such [ALJ] hearing is relevant and material and that there were reasonable grounds for the failure to adduce such evidence at such hearing, the DAB may remand the matter

to the ALJ for consideration of such additional evidence.

42 C.F.R. § 1005.21(f). The additional documents relate solely to the criminal conviction underlying the exclusion of Dr. Kirkorov and his view that he was wrongly convicted. The regulations state that:

When the exclusion is based on the existence of a criminal conviction or a civil judgment imposing liability by Federal, State or local court, a determination by another Government agency, or any other prior determination where the facts were adjudicated and a final decision was made, the basis for the underlying conviction, civil judgment or determination is not reviewable and the individual or entity may not collaterally attack it either on substantive or procedural grounds in this appeal.

42 C.F.R. § 1001.2007(d); ALJ Decision at 6, 10. Accordingly, we exclude these documents from the record for the decision on the grounds that they are irrelevant and were not timely submitted.

After reviewing the record to evaluate the issues presented by the exceptions, we have determined that we need not render a separate decision. We therefore decline review of and summarily affirm the ALJ Decision. Thus, the ALJ Decision becomes final and binding 60 days from the date of service of this letter. See 42 C.F.R. § 1005.21(j). The date of service will be deemed to be 5 days from the date of mailing.

Judicial review is available in an appropriate United States district court if a civil action is filed within 60 days after service of this decision. See sections 1128(f)(1) and 205(g) of the Social Security Act (42 U.S.C. §§ 1320a-7(f)(1), 405(g)) and 42 C.F.R. § 1005.21(k)(1).

/s/
Judith A. Ballard

/s/
Sheila Ann Hegy

/s/
Leslie A. Sussan
Presiding Board Member

cc: Civil Remedies Division

Robert K. DeConti, OCIG
Robin Schneider, OCIG
Susan Earp, OCIG

enclosure: Appeal (for Mr. Blank)