

hearings conducted by the Board; written statements resulting from conferences; evidence submitted at hearings; and orders and other documents issued by the Board. In addition, the Board may include other materials (such as evidence submitted in another appeal) after the parties are given notice and an opportunity to comment.

(b) The Board will promptly notify the parties in writing of any disposition of a case and the basis for the disposition.

#### § 16.22 The effect of an appeal.

(a) *General.* Until the Board disposes of an appeal, the respondent shall take no action to implement the final decision appealed.

(b) *Exceptions.* The respondent may—  
(1) Suspend funding (see § 75.371 of this title);

(2) Defer or disallow other claims questioned for reasons also disputed in the pending appeal;

(3) In programs listed in appendix A, B.(a)(1), implement a decision to disallow Federal financial participation claimed in expenditures reported on a statement of expenditures, by recovering, withholding or offsetting payments, if the decision is issued before the reported expenditures are included in the calculation of a subsequent grant; or

(4) Take other action to recover, withhold, or offset funds if specifically authorized by statute or regulation.

[46 FR 43817, Aug. 31, 1981, as amended at 81 FR 3012, Jan. 20, 2016]

#### § 16.23 How long an appeal takes.

The Board has established general goals for its consideration of cases, as follows (measured from the point when the Board receives the first submission after the notice of appeal):

—For regular review based on a written record under § 16.8, 6 months. When a conference under § 16.10 is held, the goal remains at 6 months, unless a requirement for post-conference briefing in a particular case renders the goal unrealistic.

—For cases involving a hearing under § 16.11, 9 months.

—For the expedited process under § 16.12, 3 months.

These are goals, not rigid requirements. The paramount concern of the

Board is to take the time needed to review a record fairly and adequately in order to produce a sound decision. Furthermore, many factors are beyond the Board's direct control, such as unforeseen delays due to the parties' negotiations or requests for extensions, how many cases are filed, and Board resources. On the other hand, the parties may agree to steps which may shorten review by the Board; for example, by waiving the right to submit a brief, by agreeing to shorten submission schedules, or by electing the expedited process.

#### APPENDIX A TO PART 16—WHAT DISPUTES THE BOARD REVIEWS

##### A. What this appendix covers.

This appendix describes programs which use the Board for dispute resolution, the types of disputes covered, and any conditions for Board review of final written decisions resulting from those disputes. Disputes under programs not specified in this appendix may be covered in a program regulation or in a memorandum of understanding between the Board and the head of the appropriate HHS operating component or other agency responsible for administering the program. If in doubt, call the Board. Even though a dispute may be covered here, the Board still may not be able to review it if the limits in paragraph F apply.

##### B. Mandatory grant programs.

(a) The Board reviews the following types of final written decisions in disputes arising in HHS programs authorizing the award of mandatory grants:

(1) Disallowances under Titles I, IV, VI, X, XIV, XVI(AABD), XIX, and XX of the Social Security Act, including penalty disallowances such as those under sections 403(g) and 1903(g) of the Act and fiscal disallowances based on quality control samples.

(2) Disallowances in mandatory grant programs administered by the Public Health Service, including Title V of the Social Security Act.

(3) Disallowances in the programs under sections 113 and 132 of the Developmental Disabilities Act.

(4) Disallowances under Title III of the Older American Act.

(5) Decisions relating to repayment and withholding under block grant programs as provided in 45 CFR 96.52.

(6) Decisions relating to repayment and withholding under State Legalization Impact Assistance Grants as provided in 45 CFR 402.24 and 402.25.

(b) In some of these disputes, there is an option for review by the head of the granting agency prior to appeal to the Board. Where