

**Department of Health and Human Services
DEPARTMENTAL APPEALS BOARD
Appellate Division**

Paresh R. Patel
Docket No. A-17-104
Decision No. 2825
October 11, 2017

**DETERMINATION TO DECLINE REVIEW OF
ADMINISTRATIVE LAW JUDGE DECISION**

After reviewing the record to evaluate the issues presented by Paresh R. Patel's exceptions to the decision of the administrative law judge (ALJ) in *Paresh R. Patel*, Decision No. CR4874 (2017), we have determined that we need not render a separate decision.¹ Pursuant to 42 C.F.R. § 1005.21(g), we therefore decline review of and summarily affirm the administrative law judge's decision. That decision becomes final and binding 60 days from the date of service of this determination to decline review. *See* 42 C.F.R. §1005.21(j).

¹ The basis Petitioner states for his appeal is that the ALJ "did not acknowledge any argument presented on behalf of Petitioner." Request for Review at 1, 4. However, since Petitioner did not file his hearing request on time, the ALJ was required to dismiss it and, therefore, lacked authority to consider Petitioner's arguments, which went to the merits, not the timeliness issue. *See* 42 C.F.R. § 1005.2(e)(1).

Judicial review is available in an appropriate United States district court if a civil action is filed within 60 days after service of this determination to decline review. *See* sections 1128(f)(1) and 205(g) of the Social Security Act and 42 C.F.R. § 1005.21(k)(1).

/s/

Constance B. Tobias

/s/

Susan S. Yim

/s/

Sheila Ann Hegy
Presiding Board Member