

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

William Wyttenbach, M.D.
Docket No. A-16-88
Decision No. 2724
July 26, 2016

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

After reviewing the record to evaluate the issues presented by William Wyttenbach, M.D.'s exceptions to the decision of the administrative law judge in *William Wyttenbach, M.D.*, Decision No. CR4561 (2016), we have determined that we need not render a separate decision. We therefore decline review of and summarily affirm the administrative law judge's decision.* Thus, 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).

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/
Christopher S. Randolph

/s/
Susan S. Yim

/s/
Sheila Ann Hegy
Presiding Board Member

* The Board has consistently affirmed the conclusion, reached by the ALJ here, that 42 C.F.R. § 1005.2(e)(1) leaves an ALJ no discretion to decide not to dismiss an untimely hearing request since the regulation states, without any "good cause" exception, that an ALJ "will dismiss a hearing request where . . . [t]he petitioner's . . . hearing request is not filed in a timely manner[.]" *See, e.g., Kris Durschmidt*, DAB No. 2345 (2010).