

**UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD**

DEBBIE ALFRED PIERRE,
Appellant,

DOCKET NUMBER
DC-0351-26-0836-I-1

v.

U.S. AGENCY FOR INTERNATIONAL DATE: October 13, 2026
DEVELOPMENT,
Agency.

THIS ORDER IS NONPRECEDENTIAL¹

Christopher H. Dorn, Washington, D.C., for the appellant.

John M. Breland, Deion A. Kathawa, Alex Roberson, and Allison
Kidd-Miller, Washington, D.C., for the agency.

BEFORE

James J. Woodruff II, Chairman
Henry J. Kerner, Vice Chairman

REMAND ORDER

The appellant has filed a petition for review of the initial decision, which dismissed her appeal of her separation from Federal service based on a reduction in force (RIF) as untimely filed without good cause. For the reasons discussed below, we GRANT the appellant's petition for review, REVERSE the administrative judge's conclusion that the appellant failed to show good cause for

¹ A nonprecedential order is one that the Board has determined does not add significantly to the body of MSPB case law. Parties may cite nonprecedential orders, but such orders have no precedential value; the Board and administrative judges are not required to follow or distinguish them in any future decisions. In contrast, a precedential decision issued as an Opinion and Order has been identified by the Board as significantly contributing to the Board's case law. See 5 C.F.R. § 1201.117(c).

the untimeliness of her appeal, and REMAND the case to the Washington Regional Office for further adjudication in accordance with this Remand Order.

BACKGROUND

On March 28, 2025, the agency notified the appellant of its decision to separate her from Federal service based on a RIF action. Initial Appeal File (IAF), Tab 1 at 6-12. The letter notified the appellant of her right to appeal the decision to the Board within 30 calendar days of the effective date of the RIF action. *Id.* at 8. The appellant's RIF separation became effective on September 2, 2025. *Id.* at 13. The appellant filed this appeal challenging her RIF separation on December 11, 2025. *Id.* at 1. In his initial decision, the administrative judge found that the appellant was required to file her appeal to the Board by October 2, 2025; however, because the Board extended the filing deadline by 43 days for the Government shutdown, her appeal was due by November 14, 2025. IAF, Tab 7, Initial Decision (ID) at 2. Because the appellant did not file her appeal until December 11, 2025, he found that it was 26 days late. ID at 2-4.

The administrative judge ordered the appellant to submit evidence and argument showing that her appeal was timely filed or that good cause existed for the delay in filing. IAF, Tab 3. The appellant responded and submitted medical documentation from her obstetrician and gynecologist (OB-GYN) and hospital, stating that she experienced a high-risk pregnancy and delivery on September 7, 2025. IAF, Tab 4 at 4-10. She also certified that she suffered post-partum complications that required continued medical care and recovery, which interfered with her ability to file her appeal and request an extension. *Id.* at 3-4. Because the administrative judge found the appellant's response insufficient, he instructed the appellant to file additional evidence to support her argument that there was good cause for her untimeliness. IAF, Tab 5. In response, the appellant explained that she suffered post-partum depression from approximately

September 7, 2025, to December 7, 2025, which impacted her ability to sleep, focus, and manage basic, daily responsibilities, including filing her appeal. IAF, Tab 6 at 3-5. She also submitted medical documentation showing that her OB-GYN prescribed her an anti-depressant on October 20, 2025. *Id.* at 6. She further certified that although it took some time for the medication to become effective, she promptly filed her appeal once she was medically able to do so. *Id.* at 3-5.

Without holding the appellant's requested hearing, the administrative judge dismissed the appeal as untimely filed without a showing of good cause. IAF, Tab 1 at 1; ID at 1, 7. He reasoned that the appellant had not provided sufficient evidence that her alleged medical conditions prevented her from filing her appeal during the entirety of the filing period and the period of delay. ID at 5-7.

The appellant has filed a petition for review, renewing the good cause arguments she raised below. Petition for Review (PFR) File, Tab 1 at 7-8. The agency has responded and the appellant has replied. PFR File, Tabs 5-6.

DISCUSSION OF ARGUMENTS ON REVIEW

We reverse the administrative judge's finding that the appellant did not show good cause for her filing delay.

To establish good cause for an untimely filing, a party must show that she exercised due diligence or ordinary prudence under the particular circumstances of the case. *Alonzo v. Department of the Air Force*, 4 M.S.P.R. 180, 184 (1980). The Board will consider the length of the delay, the reasonableness of her excuse and her showing of due diligence, whether she is proceeding pro se, and whether she has presented evidence of the existence of circumstances beyond her control that affected her ability to comply with the time limits or of unavoidable casualty or misfortune, which similarly shows a causal relationship to her inability to timely file her petition. *Moorman v. Department of the Army*, 68 M.S.P.R. 60, 62-63 (1995), *aff'd*, 79 F.3d 1167 (Fed. Cir. 1996) (Table).

On review, the appellant challenges the administrative judge's finding that she did not establish good cause for her untimeliness based on her medical conditions because she did not provide sufficient evidence that her medical conditions prevented her from filing her appeal during the entire filing period, i.e., between the September 2, 2025 effective date of her RIF separation and her November 14, 2025 filing deadline, as well as during the 27-day delay period from her deadline until she filed her appeal on December 11, 2025.² ID at 4-7; PFR File, Tab 1 at 7-8. For the following reasons, we reverse the administrative judge's finding that the appellant failed to show good cause for her untimeliness.

To establish that an untimely filing was the result of a physical or mental condition, an appellant must: (1) identify the time period during which she suffered from the physical or mental condition; (2) submit any evidence she may have, including medical reports, showing that she suffered from the alleged physical or mental condition during that time period; and (3) explain how the physical or mental condition prevented her from timely filing her appeal or a request for an extension of time. *Lacy v. Department of the Navy*, 78 M.S.P.R. 434, 437 (1998). There is no general incapacitation requirement; rather, the appellant only is required to explain why her alleged illness impaired her ability to meet the Board's filing deadline or seek an extension of time. *Lacy*, 78 M.S.P.R. at 437 n.*. Although medical evidence is preferable in supporting a claim of good cause for the delay, supporting evidence is not limited to medical evidence alone if the appellant explains why the medical evidence is unavailable. *Jerusalem v. Department of the Air Force*, 107 M.S.P.R. 660, ¶ 7 (citing *Lacy*, 78 M.S.P.R. at 437 n.*), *aff'd per curiam*, 280 F. App'x 973 (Fed. Cir. 2008).

Here, the pro se appellant asserted that from September to December 2025 she suffered medical issues, including a high-risk pregnancy and delivery and

² On review, the appellant does not challenge the administrative judge's finding that her appeal was untimely filed. ID at 3-4. Because we find it supported by the record, we decline to disturb it; however, we clarify that the appeal was untimely filed by 27 days, not 26 days.

post-partum depression, which directly caused her delay in filing her appeal. IAF, Tab 4 at 4, Tab 6 at 4-5. Specifically, the appellant submitted a medical note from her OBGYN, dated July 23, 2025, stating that the appellant had experienced pregnancy complications and that her pregnancy was high-risk. IAF, Tab 4 at 10. Her doctor explained that during the remainder of the appellant's third trimester until at least 2 months following her delivery, the appellant required assistance from her mother in order to care for her newborn and perform basic daily living activities. *Id.* The appellant also explained that her pregnancy was classified as high-risk because she had previously suffered a pregnancy loss in her second trimester and that she had to have surgery and ongoing monitoring, which caused her substantial physical and emotional strain. IAF, Tab 6 at 3-4. She also submitted medical documentation from her hospital showing that she was hospitalized and delivered her baby on September 6 and 7, 2025, and that she had a history of pregnancy complications. IAF, Tab 4 at 5-8.

The appellant also certified that, immediately after the birth of her child on September 7, 2025, until approximately December 7, 2025, she suffered post-partum depression, which she explained impacted her ability to sleep, focus, and manage basic, daily responsibilities, including filing her appeal and requesting an extension. IAF, Tab 6 at 3-5. In support of her claim, she submitted medical documentation, showing that on October 20, 2025, her OB-GYN prescribed her an anti-depressant to help manage her post-partum depression. *Id.* at 6. She further certified that it took some time for the medication to "reach therapeutic effectiveness" and that once she had the capacity to resume normal daily functioning in early December, she promptly filed her appeal on December 11, 2025. *Id.* at 3-5. Upon reviewing the appellant's medical documentation, we find that it sufficiently corroborates her assertion that her medical conditions impaired her ability to file her Board appeal and request

an extension of time until approximately early December 2025, at which time she promptly filed her appeal.³

Under the particular circumstances of this case, we find the appellant has provided sufficient cause, supported by corroborating medical evidence, explaining how her medical condition prevented her from timely filing her appeal. *See Lacy*, 78 M.S.P.R. at 437-38. Moreover, the agency has presented no evidence or argument suggesting that it would be prejudiced by a waiver of the filing time limit. *See Moorman*, 68 M.S.P.R. at 63 (explaining that, once good cause has been demonstrated, the Board must determine whether the agency has shown that it would be prejudiced by a waiver of the time limit). Thus, we find that the appellant has established good cause for the untimely filing of her appeal.

ORDER

For the reasons discussed above, we remand this case to the Washington Regional Office for further adjudication in accordance with this Remand Order.

Gina K. Grippando

FOR THE BOARD:

Gina K. Grippando
Clerk of the Board

Washington, D.C.

³ For the first time on review, the appellant alleges that her health insurance coverage lapsed from October 31, 2025, to December 1, 2025, which prevented her from obtaining additional medical treatment and documentation during that period. PFR File, Tab 1 at 6-10. She also submits insurance documentation, dated around that time, to support her claim. *Id.* at 15-22. The Board generally will not consider evidence or legal argument raised for the first time in a petition for review absent a showing that it was not previously available despite the party's due diligence. *See* 5 C.F.R. § 1201.115(d). Because the appellant has not made such a showing, we have not considered this evidence and argument on review.