

She requested extending the time to file her appeal due to the unexpected diagnosis of breast cancer on February 25, 2009.

In the October 20, 2008 notice of final rule making, the Board noted that compelling circumstances could include a medical condition that rendered an appellant incompetent or military service in a war zone that prevented timely filing of an appeal. The Board finds that the evidence submitted with appellant's application for review is not sufficient to establish that she was incompetent to manage her affairs at any time after the February 25, 2009 diagnosis.³ She has not submitted evidence to establish that she became incapacitated as contemplated by the Board's implementing regulation. For this reason, she did not timely file her application seeking review of the May 6, 2009 Office decision and the appeal will be dismissed.

IT IS HEREBY ORDERED THAT the appeal docketed as No. 10-1135 be dismissed.

Issued: June 23, 2010
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

³ Compare *Aurora L. Palalay*, 35 ECAB 1078, 1081 (1984); *Lillian H. O'Connor (Cornelius F. O'Connor, Sr.)*, 13 ECAB 568 (1962).