

Program Operations Manual System (POMS)

Effective Dates: 10/20/2014 - Present

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TN 15 (01-14)

GN 03101.020 Good Cause for Extending the Time Limit to File an Appeal

A. Good cause for extending the time limit

When a claimant contacts us and questions or disagrees with a determination after the 10-day (plus five mail days) time limit to request statutory benefit continuation (SBC) or receive Goldberg Kelly (GK) payment continuation or after the 60-day (plus five mail days) time limit to file an appeal, assist him or her if he or she wants to pursue an appeal. Develop good cause for extending the time limit to request SBC, receive GK payment continuation, or file an appeal, as appropriate. For additional information about the time limits, see:

- [GN 03101.010A](#) for appeals,
- [DI 12027.008](#) for SBC, and
- [SI 02301.310C.4](#) for GK payment continuation.

The good cause statement must be in writing and explain why the claimant did not timely file. The good cause statement addresses SBC or GK payment continuation if the 10-day (plus five mail days) time limit is the issue. The good cause statement may address only the appeal or the appeal and SBC or GK payment continuation. Assist the claimant if he or she needs your help to write the good cause statement.

B. Good cause for late filing considerations

Consider the following issues when determining whether a claimant has good cause for failing to file an appeal request timely.

- Circumstances impeded the claimant's efforts to pursue his or her claim or appeal another issue.
- The Social Security Administration (SSA) or the Centers for Medicare and Medicaid Services (CMS) actions were confusing or misleading.
- The claimant did not understand the requirements of the Social Security Act (Act), resulting from amendments to the Act, other legislation, or court decisions.

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- The claimant's physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) prevented him or her from timely filing an appeal request. For residents of the Fourth Circuit (Maryland, North Carolina, South Carolina, Virginia, and West Virginia), see Acquiescence Ruling 90-4(4).

C. Examples of good cause for late filing

Examples of circumstances where good cause may exist include, but are not limited to, the below situations.

- The claimant was seriously ill and was prevented from contacting SSA in person, in writing, or through a friend, relative, or other person.
- There was a death or serious illness in the claimant's immediate family.
- Pertinent records were destroyed or damaged by fire or other accidental cause.
- The claimant was diligently seeking evidence to support his or her claim, but did not finish before the time period expired.
- The claimant or representative, within the appeal time limit requested additional information from SSA to explain our action. (If the appeal is filed within 60 days (plus five mail days) after we send the information, we will find good cause. If the Appeals Council (AC) review or civil action is the next appeal level, we will find good cause if the claimant requests the appeal within 30 days (plus five mail days) after we send the information. See additional information in [GN 03101.010](#)).
- An agency representative of SSA or CMS gave the claimant confusing, incorrect, or incomplete information about when and how to request continued benefits, reconsideration, a hearing, AC review, or to begin a civil action. For additional information, see [GN 03101.120C.3](#).
- The claimant did not understand the requirement to file timely or was not able to file timely due to a physical, mental, educational, or linguistic limitation (includes any lack of facility with the English language).
- The claimant did not receive a notice of the determination or decision (e.g., SSA used an incorrect address or the claimant moved).
- The claimant submitted the appeal request to another government agency in good faith within the time limit and the request did not reach SSA until after the time period had expired.
- The claimant submitted a request for reconsideration asking for additional information within the appeal period (i.e., the claimant used a form SSA-561 Request for Reconsideration to request that information). We determined the request for reconsideration was erroneous and dismissed it.

D. Procedure for developing good cause and documenting the determination

The component with jurisdiction of the appeal request makes the good cause determination.

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- Field office (FO) technicians make good cause determinations for SSI and disability reconsideration requests and reconsideration requests on the issues listed in [GN 03102.175B.1](#).
- Processing Center (PC) technicians make good cause determinations for reconsideration requests on the issues listed in [GN 03102.175B.2-7](#).
- The Office of Disability Adjudication and Review (ODAR) and the AC make good cause determinations for hearing requests and requests for AC review, respectively.

The following instructions are for FO and PC technicians. For instructions on processing SBC or GK payment continuation, see [DI 12027.008](#) (SBC) and [SI 02301.310C.4](#) (GK payment continuation).

1. Request for reconsideration

Obtain a written statement that explains the claimant's reason for late filing of the appeal if the claimant is in the office. The claimant may add the statement to the appeal request. If the claimant is not in the office, request a good cause statement using the development procedures in [GN 03102.300B.2.a](#).

If an FO technician obtains a good cause statement for a reconsideration

request that is under the PC's jurisdiction, the FO technician sends the good cause statement to the PC for a determination. If the FO technician obtains a good cause statement for a reconsideration request that is under the FO's jurisdiction, the FO technician will make the determination.

- a. Determine evidence to explain the delay in filing the appeal (e.g., SSA records).
- b. Evaluate the evidence, make a determination, and document the Modernized Claims System (MCS) Report of Contact (RPOC), the Modernized Supplemental Security Income Claims System (MSSICS) appeal screens, or an SSA-553 – Special Determination form as appropriate with the reason for late filing, evaluation of the facts, and the determination.

For a **medical appeal**, write "Good Cause Found" or "Good Cause Not Found" across the top of the good cause statement. Fax it into section B of the electronic folder or place it in the Red- Jurisdictional Documents/Notices section of the Modular Disability Folder (MDF) ([DI 70005.005B.2](#)).

1. If the technician finds good cause, process the request for reconsideration.
2. If the technician does not find good cause, take the following actions:
 - Dismiss the reconsideration and notify the claimant of the dismissal of the appeal. Do not include an appeal rights paragraph.
 - Examine the case to verify the correctness of the prior action and for possible reopening under the rules of administrative finality (see [GN 04001.000](#)).
 - The appeal request can serve as a protective writing if we do not find good cause for late filing. Close the protective writing per the instructions in [GN 00204.012](#).

2. Hearing and AC review

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If the claimant is in the office, obtain the good cause statement and forward it with the appeal request to ODAR or the AC for a determination. The claimant may add the statement to the appeal request.

If you receive a late hearing or request for AC review by mail, fax, or email, forward the request to ODAR or the AC as appropriate. Obtain a good cause statement only at ODAR's or AC's request. Use the development instructions in [GN 03103.130](#) (hearing) or [GN 03104.300](#) (AC review).

NOTE: We presume that a representative's appointment expires when the appeal period ends. If there is a question about a claimant's representation status, see [GN 03910.060C](#).

E. References

- See [GN 03101.110](#) and [RS 02201.001B](#) for information about earnings record appeals.
- See [GN 04030.090B.9](#) for information about government pension offset appeals.
- See [GN 04030.100B.7](#) for information about windfall elimination appeals.

To Link to this section - Use this URL:

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