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HALLEX

I-3-9-60. Requests for Extensions of Time to File Civil Action

Last Update: 9/08/05 ([Transmittal I-3-36](#))

The Appeals Council ordinarily grants extensions of time for a period of 30 days. The Appeals Council may, at its discretion, decide to grant more or less time depending on the circumstances in the individual case.

If the claimant or representative gives no reason or an insufficient reason for requesting an extension of time, the Appeals Council will deny the request, regardless of whether the request was filed within or after the 60-day civil action period.

NOTE:

If the Appeals Council receives additional evidence or correspondence within or after the 60-day period to file a civil action without a specific request to extend the time, the Council should address the additional material and remain silent on any extension of time. This applies regardless of whether the Appeals Council's response is before or after the civil action period has expired.

All requests for extensions of time to commence a civil action will be referred to the appropriate OAO branch for action. If a claimant or representative orally requests an extension of time, the claimant or representative must confirm the request in writing. However, we will use the date of oral inquiry as the date the request was filed. The OAO branch staff member who receives the oral request must:

- Inform the caller that he or she must (a) put the request for an extension of time in writing and (b) include a reason(s) for the request;
- Prepare a dated call record of the conversation; and
- Locate the claim file and associate the call record.

When the branch releases a notice extending the time to file a civil action, the analyst will change the date on the Potential Court Case flag to 90 days after the date the extension expires (120 days after the extension expires for claimants residing in Puerto Rico).

Requests for extensions of time to file a civil action may also raise collateral issues requiring consideration by the Appeals Council, such as a request to reopen the decision based on additional evidence. In such an instance, the analyst must prepare, in final form, a letter which responds to the issues in appropriate detail and forward the letter and claim file to the AAJ for consideration.

Whenever the Council declines to grant an extension of time, the notice to the claimant must contain rationale sufficient to justify the conclusion that no good cause exists to extend the time for filing the civil action.

Although the Council's refusal to extend the time for filing is discretionary and not subject to court review under section [205\(g\)](#), the rationale must avoid even the appearance of an abuse of discretion.

Sample letters concerning the disposition of specific requests for extension of time to file a civil action can be found in the Appeals Text Guide.

Appropriate correspondence rules and signature policies are incorporated in the Appeals Text Guide.



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