

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

Maria Bejacmar-Didier  
Docket No. A-19-88  
Decision No. 2956  
July 25, 2019

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

After reviewing the record to evaluate the issues raised by Petitioner Maria Bejacmar-Didier in her appeal of the administrative law judge (ALJ) decision in *Maria Bejacmar-Didier, Ph.D.*, DAB CR5321 (2019), we have determined that we need not render a separate decision.<sup>1</sup> The ALJ dismissed Petitioner’s hearing request under 42 C.F.R. § 1005.2(e)(1) because Petitioner did not file the request within 60 days of receiving the Inspector General’s exclusion notice, as required by 42 C.F.R §§ 1001.2007(b) and 1005.2(c). Petitioner’s contentions on appeal do not dispute that her request for hearing was untimely or the ALJ’s conclusion that section 1005.2(e)(1) required him to dismiss her hearing request for that reason, allowing him no discretion to consider whether there was good cause to excuse the untimeliness.<sup>2</sup> Accordingly, pursuant to 42 C.F.R. § 1005.21(g), we decline review of and summarily affirm the ALJ decision.

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<sup>1</sup> The record before the Board includes Petitioner’s letter dated July 2, 2019, which the Board has considered as Petitioner’s Reply, absent objection from the IG.

<sup>2</sup> Although it has no bearing on our decision, we note that Petitioner may be confused as to the relationship between the IG’s exclusion action in this case and the separate actions taken by the Centers for Medicare and Medicaid Services (CMS) to revoke her Medicare enrollment and billing privileges and to subsequently list her, for a period of time at least, on CMS’s preclusion list. As the Board recently reiterated, IG exclusions and CMS revocations “‘are distinct remedial tools, each with its own set of prerequisites and consequences for the provider or supplier.’” *Dr. Robert Kanowitz*, DAB No. 2942, at 6 (2019) (quoting *Abdul Razzaque Ahmed, M.D.*, DAB No. 2261, at 13 (2009), *aff’d*, *Ahmed v. Sebelius*, 710 F. Supp. 2d 167 (D. Mass. 2010)).

The ALJ decision becomes final and binding 60 days from the date of service of this decision 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 decision 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/

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Christopher S. Randolph

/s/

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Constance B. Tobias

/s/

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Sheila Ann Hegy  
Presiding Board Member