

**Department of Health and Human Services**

**DEPARTMENTAL APPEALS BOARD**

**Civil Remedies Division**

Rosa M. Martinez, M.D.,  
(O.I. File Number 9-04-40074-9),

Petitioner

v.

The Inspector General.

Docket No. C-10-757

Decision No. CR2255

Date: September 29, 2010

**DECISION DISMISSING REQUEST FOR HEARING**

By letter dated September 20, 2010, Petitioner responded to my Order to Show Cause for Abandonment and responded to the Inspector General's (I.G.'s) August 23, 2010 motion to dismiss Petitioner's hearing request for untimely filing. Petitioner acknowledged that her request was not timely filed stating, "it was correct, that my petition was a few days after the 60 days I had for it, the only way that I would not abandon this, is to allow me to present it, even though the delay of 5 days, and this will be mainly up to [the I.G.], and the [Judge]." Petitioner further states, "I am so sorry that I was late, but I was overwhelmed with the 'legal' aspects of my life. . . ." Petitioner, in essence, argues that I should overlook her minimal delay in filing and use my discretion to hear her appeal.

However, there is no good cause provision for untimely filing. I do not have jurisdiction to hear appeals filed after the deadline and therefore do not have discretion to overlook any delay in filing. I recognize that in this case Petitioner filed her hearing request only a few days after the filing deadline had elapsed. Unfortunately for Petitioner, the regulatory deadline is invariable and may not be waived.

