



Maryland Procurement Law ALERT

When Saturday administrative filing deadlines are really Friday

The Maryland Procurement ALERT is now featured in [The Daily Record](#). This [article](#) ran on August 15, 2024.

Attorneys practicing before the Maryland State Board of Contract Appeals and other administrative tribunals should take notice of the MSBCA's decision in [Caremark PCS Health, LLC, MSBCA 3277](#). The Board dismissed the appeal as being filed untimely, under the timing statute in the General Provisions Article of the Maryland Code.

The filing deadline fell on a Saturday and the appellant waited until the next Monday to file its appeal. This was too late.

Attorneys familiar with the general time for filing rules for court cases know that, if a filing deadline falls on a Saturday, Sunday or holiday, the court deadline gets moved back to the next business day – typically the next Monday. In *Caremark PSC Health*, the MSBCA reminds us that attorneys should be careful to not assume that this timing rule applies outside of court.

The Maryland Code has a general provision for timing that differs from the Court Rules when a deadline falls on a Saturday. Under Gen. Prov. § 1-302(b), the last day for measuring a time period extends to the next business day *only if* the deadline falls on a Sunday or legal holiday.

Deadlines that fall on Saturday do not get extended unless “the act to be done is the filing of a paper in court and the office of the clerk of the court is not open on the last day of the period of time.” In other words, if a deadline falls on a Saturday, the deadline under Gen. Prov. § 1-302(b) is really the preceding Friday.

In the case before the MSBCA, the appellant protested the selection of another bidder for a Pharmacy Benefits Management Services and Purchasing Pool Management contract issued by the Department of Budget and Management. DBM issued its final decision denying the appellant's protest on June 26, 2024. Under the relevant

procurement statutes and regulations, the appellant had 10 days to appeal this final decision, meaning it was due to the MSBCA by Saturday, July 6, 2023.

Notably, Friday, July 5, 2024, was not a state holiday, and the MSBCA was open for business. (If Friday, July 5 were a holiday, the Maryland Code might have resulted in what the artist M.C. Escher called a “strange loop,” which he depicted visually as hands drawing each other). The appellant, however, did not file its appeal with the MSBCA until July 8, 2024.

The MSBCA granted DMB’s motion to dismiss the appeal as being untimely. Though the appellant argued that court rules should apply, the MSBCA has been held to not be a court of competent jurisdiction nor judicial tribunal. The time rules of the General Provisions Article, therefore, applied, and the appellant’s deadline to file its appeal was Friday, July 5, which the appellant missed.

Those practicing before the MSBCA and other administrative tribunals under the Administrative Procedures Act must be mindful. Under Maryland law, filing deadlines for administrative tribunals that fall on Saturday may, unlike court filings, be shortened a day and not extended to the next business day.

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