

Circuit Court for Baltimore City
Case No. C-24-CV-24-002448

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 0236

September Term, 2025

SULE JAJA

v.

MARYLAND DEPARTMENT OF LABOR,
BOARD OF APPEALS

Berger,
Leahy,
Getty, Joseph M.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Leahy, J.

Filed: July 20, 2026

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

When appellant, Mr. Sule Jaja, lost his job with Associated Catholic Charities (“ACC”) in August 2023, he applied for and received unemployment benefits from the Maryland Department of Labor (“MDL”). ACC contested the grant of unemployment benefits to Mr. Jaja on the ground that he “was discharged for violating company policy.” MDL’s Lower Appeals Division (“LAD”) held a hearing on the matter and LAD’s hearing examiner (“Hearing Examiner”) issued a decision on May 5, 2024, agreeing with ACC. Mr. Jaja claims he was not notified of the hearing, the Hearing Examiner’s decision, or certain MDL overpayment notices. According to Mr. Jaja, he first became aware of them when he logged into his MDL “BEACON” account to check on an unrelated matter more than two months after the LAD hearing. Mr. Jaja filed an appeal with the appellee, MDL Board of Appeals (“Board”), and asked for a new hearing because he “was not aware” of the LAD decision or his right to appeal.

The Board ruled that it lacked jurisdiction to act on Mr. Jaja’s appeal because the appeal was filed almost two months after a statutory deadline. Mr. Jaja petitioned for judicial review in the Circuit Court for Baltimore City, which upheld the decision of the Board.

Mr. Jaja filed this timely appeal and presents two questions¹ for our review, but the

¹ Mr. Jaja framed the issues in his brief as follows:

1. Does the lack of notice of the proceedings to Appellant Sule Jaja constitute a violation of his due process rights or otherwise invalidate and require the overturning of the ruling of the Board of Appeals in this case?

(Continued)

dispositive question is whether the Board erred in determining that it lacked jurisdiction to hear Mr. Jaja’s late-filed appeal. Because the Board correctly decided its own jurisdiction, we affirm its decision.

BACKGROUND

Mr. Jaja worked for ACC from February 2023 until August 2023 as a “Manager of Community Living.” Evidence presented to the circuit court but not to the agency suggests that when he submitted his application for unemployment to MDL, he was asked to provide his preferred method of communication, and he chose to be notified by text message.²

A claims specialist reviewed Mr. Jaja’s unemployment benefits application and determined that “[i]nsufficient information [was] presented to show that [his] actions constituted misconduct in connection with the work” and that Mr. Jaja was therefore allowed to receive unemployment benefits. The claims specialist’s Notice of Benefit Determination was provided to Mr. Jaja and ACC on January 9, 2024.³

2. Given the facts and circumstances of this case, was the applicable regulation (or regulations) unreasonable and/or caused of violation of Mr. Jaja’s rights to due process and equal protection such that the ruling of the Board of Appeals must be overturned?

² Although we mention this evidence here, we do not consider it in our analysis. We are “limited to determining whether there is substantial evidence in the record as a whole to support the agency’s findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law.” *Kenwood Gardens Condominiums, Inc. v. Whalen Props., LLC*, 449 Md. 313, 325 (2016) (citing *Md. Aviation Admin. v. Noland*, 386 Md. 556, 571 (2005)).

³ Copies of the notices sent to Mr. Jaja and ACC both include the addresses of the recipients.

ACC appealed to the LAD. The LAD scheduled a hearing and issued notices of the hearing to the parties. The notices stated, in relevant part, that “[a]n appeal hearing on below issue(s) will be held on Friday, March 29, at 1:45 PM EDT.” The notices also instructed that the hearing constituted “the last step at which either the claimant or the employer has the absolute right to present evidence” after which the Hearing Examiner would decide the matter based on the “evidence presented.” The notice in the record that was sent to Mr. Jaja shows that it was to be sent to the same address in Baltimore City as shown on the written decision issued by the claims specialist.

The hearing did not go forward on March 29.⁴ Another hearing was scheduled for April 29, 2024, and on April 10, another round of notices was sent to the parties. Mr. Jaja claims he did not receive notice of the hearing, and therefore did not attend. With Mr. Jaja absent, ACC presented evidence to the Hearing Examiner. ACC presented its policy “that prohibits insubordination” including “refus[ing] to perform a job assignment or follow a reasonable request from a manager or supervisor.” ACC issued “Performance Feedback Forms” twice to Mr. Jaja in the spring of 2023, instructing him to follow the directives of his supervisor. In August, when Mr. Jaja was instructed to relieve another staff member who was assisting a client in the emergency department of a hospital, he refused to do so. Because ACC “was faced with an employee who repeatedly failed [to] perform his employment responsibilities[,] ... [ACC] made a decision to discharge” Mr. Jaja.

⁴ The record does not indicate why the Hearing Examiner rescheduled the hearing.

On May 6, 2024, the Hearing Examiner issued a written decision. The Hearing Examiner considered ACC’s evidence and applicable law, including Maryland Code, Labor and Employment Article (1991, 2016 Rep. Vol.) (“LE”), Section 8-1003 which “provides for a disqualification from benefits where the claimant is discharged or suspended as a disciplinary measure for misconduct connected with the work.” “Based upon the testimony and the record,” the Hearing Examiner found that ACC “met its burden” to show “by a preponderance of the credible evidence, the claimant’s termination was for conduct which rose to the level of misconduct[.]” Notably, the Hearing Examiner stated:

An employee’s deliberate refusal to obey the employer’s direct and reasonable order may constitute misconduct or gross misconduct. The reasonableness of the order depends upon the circumstances. If the employer demonstrates that an order was reasonable, then the employee must establish that he was justified in not complying. The testimony establishes that the employer’s directive that the claimant perform his basic job functions was reasonable and well within the claimant’s ability. The claimant did not offer any reason for refusing the reasonable order.

Accordingly, the Hearing Examiner reversed the “determination of the Claims Specialist” and declared Mr. Jaja ineligible to receive unemployment benefits. The written decision provided instructions for appealing this decision, including that the “deadline for filing an appeal” was May 21, 2024. On the bottom of the last page of the decision, the Hearing Examiner wrote that “**Copies of this Decision were provided to: SULE JAJA (Claimant)[;] ASSOCIATED CATHOLIC CHARITIES[; and] NICK LOVELL (Employer Representative).**” (Emphasis in original).

A separate “Overpayment Notice” was sent to Mr. Jaja the next day. This notice informed Mr. Jaja that, due to his ineligibility to receive unemployment benefits, he had to repay the \$6,020 he received following his termination from ACC. This notice again informed Mr. Jaja of his right to appeal and warned him that if he did not appeal the Hearing Examiner’s decision, his appeal might be limited to contesting the amount of the overpayment:

Under Maryland law, you may have the right to appeal the decision of the Lower Appeals Division, the Board of Appeals, or the Court. You should refer to the notice of the decision for information on the appeal process, including the deadline to file an appeal. On the date the decision of the Lower Appeals Division, the Board of Appeals, or a Court is final and all rights of appeal have been exhausted or waived, **you will only have the right to appeal the calculation of the overpayment amount pursuant to Code of Maryland Regulations (COMAR) 09.32.12.05. To do so, you may file an appeal within 30 days after the delivery of the Final Overpayment Determination.**

Unless the decision of the Lower Appeals Division, the Board of Appeals, or the Court is modified or reversed on appeal or the overpayment is waived, you will be required to repay this amount of benefits and any additional fines, penalties, and interest. You do not need to repay these amounts while any timely appeal or waiver request is pending.

(Emphasis in original).

On July 8, 2024, after Mr. Jaja’s time to appeal the Hearing Examiner’s determination had expired, MDL issued a “Final Overpayment Determination[.]” This notice stated that Mr. Jaja must repay the \$6,020 he had received in unemployment benefits and also explained that the decision on his eligibility was now final:

Final Overpayment Determination is based on a decision of the Lower Appeals Division, the Board of Appeals, or a Court. This decision is final, and your rights to appeal the decision have been exhausted. A copy of the

relevant decision has been sent to you via your preferred method of communication.

At this point, Mr. Jaja had “the right to appeal only the calculation of the **AMOUNT** of the overpayment,” and that an appeal must be filed “within [thirty] days after the delivery of the Final Overpayment Determination.” Mr. Jaja was advised that he had “already exhausted all appeal rights regarding the issue(s) or decision which gave rise to the overpayment.” The Final Determination stated that any appeal “must be received by 08/07/2024.”

Mr. Jaja alleges that roughly a week later, he logged into his BEACON account to apply for unemployment after losing another job. He says this was the first time he saw the LAD decision notice or the overpayment notices. Mr. Jaja “immediately” appealed the Hearing Examiner’s decision to the Board of Appeals on July 16, writing:

my name is sule jaja claimant number 10095444 i am appealing case number 2401120 from Catholic charities back in 2023 i was unfairly terminated by catholic charities i was granted judgment and all my weekly certifications was paid catholic charities failed to submit their rebuttal during the timeframe given as such i was granted judgment they should not even have opportunity for appeal in this matter i was not aware of the appeal or was given any opportunity or phone call for a hearing i need a hearing so i can presen[t] my facts.

On August 1, 2024, the Board issued its decision:

Your request for an appeal from the Hearing Examiner’s decision, dated 05/06/2024, has been received by the Board of Appeals.

As per Labor and Employment Article, the last day for filing an appeal in the case was 05/21/2024. Your appeal was not filed until 07/16/2024. The Board finds that your appeal is late. Therefore, the Board has no jurisdiction to grant your request.

The Board notified Mr. Jaja that he “may file an appeal from [the Board’s] decision in the Circuit Court for Baltimore City[,]” by September 9, 2024, under Title 7 of the Maryland Rules. As in the LAD determinations, the Board wrote: “**Copies of this Decision [were] provided to: SULE JAJA (Claimant)[;] ASSOCIATED CATHOLIC CHARITIES.**” (Emphasis in original).

Mr. Jaja filed a petition for judicial review in the Circuit Court for Baltimore City. He reiterated his “primary assertions” made in his appeal to the Board, including that “his termination by ACC was unfair”; he was unaware of ACC’s appeal; he was not “given the opportunity to participate in the hearing”; and “he needed to be granted a hearing so he [could] present his facts.” Mr. Jaja also asserted that his due process rights were violated because he was not aware of the hearing, arguing that the regulations treat parties differently based on the outcome of the initial determination. Mr. Jaja also argued that he had complied with the regulation requiring appeals of final overpayment determinations to be filed with the LAD within 30 days.

The Board responded that because Mr. Jaja’s appeal was untimely, the Board could not consider it. The Board asserted that the “findings of fact of the Board are conclusive if there is substantial evidence in the record to support them and no fraud.” In this case, the Board contended, “[s]ubstantial evidence supports the Board’s decision that because ... Mr. Jaja filed his appeal almost two months past the due date, the Board cannot review the Hearing Examiner’s decision[.]” The Board wrote that although “an appeal from the claims examiner’s determination [to the LAD Hearing Examiner] ... may be extended ...

for good cause shown,” “the period for filing an appeal” to the Board “may not be extended” under COMAR 09.32.06.01B(3). Thus, the Board argued, its decision based on those regulations was “correct as a matter of law.” The Board emphasized these procedures and deadlines are governed by statute. The 15-day deadline for filing an appeal from the LAD to the Board is prescribed by LE § 8-5A-10, which does not provide for any extension of the deadline. The Board maintained that notice was provided to Mr. Jaja “by text message, his chosen preferred method of communication, on the day the correspondence was posted” and that “[p]roof of receipt is not required.”

On February 10, 2025, the parties appeared in the Circuit Court for Baltimore City. The court first inquired about the alleged lack of notice, asking “how did [Mr. Jaja] not have notice” if he “elected for, essentially, electronic notification through BEACON of any notices related to his claim, to his benefits[?]” Counsel for Mr. Jaja responded saying that it was Mr. Jaja’s “position ... that he didn’t get any notice” and “notice by text isn’t sufficient in any regard[.]” Counsel argued that no statute specifies that MDL may issue notice by text, and added that,

we’re arguing more broadly from a constitutional due process standpoint that it does not provide sufficient due process. Obviously, people don’t get notice, right? I mean, that’s a given. ... That’s another point that we’re making is that when you’re in Mr. Jaja’s position, you’re not afforded that same leeway, which is a violation of equal protection in our view.

The court asked Mr. Jaja’s counsel what he made “of the General Assembly specifically saying that the hearing examiner could forgive a late filing for good cause but didn’t provide a similar mechanism for the Board[.]” Counsel responded that “the statute

itself ... would fail to provide due process and equal protection. But on a narrower scale, it doesn't say that you can't."

Counsel also offered an alternative argument for the court's consideration. Under COMAR 09.32.12.05(a), an individual can appeal a finding of overpayment within thirty days of the issuance of the Final Overpayment Determination. Mr. Jaja sent his appeal to the Board within that thirty-day window. Counsel acknowledged that Mr. Jaja should have filed this appeal with the LAD, not the Board, but counsel asserted that the "concept of substantial compliance" and the fact that Mr. Jaja was, at the time of his appeal, proceeding *pro se*, justified some "leeway."

The Board's counsel characterized the issue before the court as "very narrow": the only issue before the Board was whether its decision is supported by substantial evidence in the record. To make that determination, the "only factual issue that [the court] look[s] at is whether or not ... Mr. Jaja's appeal was filed by the May 21[] due date." Counsel noted that, while the deadline to file an appeal may seem unfair, it "is what the General Assembly decided was going to be part of the unemployment insurance law and regulations." Further, "because ... Jaja selected text message, he was required to check that message." "[T]he Agency doesn't have to prove that he received it. The Agency sent him notification in the manner that he asked for notifications to be sent to him."

The court found that substantial evidence supported the Board's determination that the appeal was not timely. Further, the court did not "find any due process or equal

protection issues here as articulated by” Mr. Jaja’s counsel. The court explained its reasoning:

what the [c]ourt is really looking at here is the ability of ... Jaja to appeal [the hearing] decision, and if he had appealed it in a timely manner, he could have raised issues about whether there – whether he received notice and whether there was good cause, and perhaps on appeal, the issue of whether he could have received a re-hearing, may have been directed by the Board of Appeals. But here, he did not appeal within 15 days of the notice of decision.

The record before the [c]ourt indicates that ... Jaja elected to have any such notices—notice of the decisions sent by text message and—so based on that, the [c]ourt has to assume that those text messages were sent, and they were received, and they just simply were not acted upon. And it was reasonable for the Board of Appeals to act in this case based on that.

The circuit court issued an order on March 4, 2025, affirming the Board’s decision.

Mr. Jaja timely appealed to this Court.

DISCUSSION

Parties’ Contentions

Mr. Jaja claims that his due process rights were violated when the MDL did not provide notice of the hearing before the Hearing Examiner. Mr. Jaja asserts that this Court should overturn the determination of the Board and that “he should be permitted to argue his case, both procedurally and substantively, before the Board of Appeals and/or a Hearing Examiner.” Mr. Jaja points to the fact that he took “no responsive action . . . until mid-July 2024” as evidence that he did not receive notice of further proceedings from MDL. He denies having received any text message communications from MDL and contends that the record is devoid of any evidence that such messages were sent to him.

Next, Mr. Jaja contends that the applicable regulatory framework fails for lack of reasonableness and that, by following the regulations, the Board violated his rights to due process and equal protection. As he argued before the circuit court, Mr. Jaja asserts that a claimant who receives an “adverse determination” from the Claims Examiner but does not “receive notice[] from” MDL regarding further proceedings essentially has “unlimited time to appeal” the initial determination and “still be afforded the chance to explain the delay [in the appeal] before a Hearing Examiner[.]” If a claimant receives a “favorable determination by the Claims Examiner” but then does not receive notice from the Department of Labor regarding further proceedings, the appeal window is narrower. Claimants in that situation, like Mr. Jaja, have only 15 days “after the Hearing Examiner’s decision to explain how [they] didn’t receive such notice[] and have an opportunity to pursue [their] desired relief.” In this way, Mr. Jaja contends, claimants who follow the same process but receive different initial determinations “are not treated the same.”

Moreover, Mr. Jaja points to this Court’s unreported opinion⁵ in the *Matter of Dejene*, No. 230, Sept. Term 2022, 2025 WL 3033670, at *2 (Md. App. Oct. 30, 2025),⁶

⁵ As counsel for Mr. Jaja mentions in his Reply, counsel for Dejene filed a motion to publish the opinion of this Court in that case. That motion was denied.

⁶ In the *Dejene* case, the claimant, Betelehem Dejene, worked as a flight attendant for Southwest Airlines. No. 230, Sept. Term 2022, 2025 WL 3033670, *2 (Md. App. Oct. 30, 2025). Dejene sought the Board’s review of the LAD’s determination that she was not entitled to unemployment benefits because she took a leave of absence offered by Southwest during the COVID-19 pandemic. *Id.* at *4. The appellant did not challenge the timeliness of Dejene’s appeal to the Board. This Court noted in a footnote, however, that Dejene’s “appeal letter was filed beyond the November 3, 2020 deadline, [but] the Board

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in which the Board heard an appeal filed a month beyond the filing deadline, *id.* at *4, n.7. Consequently, Mr. Jaja says, we should hold that the Board “can, in fact, excuse the delayed filing of an appeal.”

Finally, Mr. Jaja recycles his argument presented in the circuit court that under COMAR 09.32.12.05.A, his appeal was timely because “he filed his appeal within [thirty] days of the Final Overpayment Determination[.]” Although he filed his appeal with the Board and not the LAD as the regulation instructs, Mr. Jaja asserts that the “doctrine of substantial compliance should allow this dynamic to be forgiven or corrected[.]”

The Board responds that it lacked jurisdiction to consider the appeal. The Board notes that “[t]here is no language anywhere in the unemployment insurance statutes or regulations that would allow the Board to ignore the statutorily prescribed appeal deadline.” The Board underscores that an appeal of a Notice of Final Overpayment Determination is “inapposite to this case” as it involves “different deadlines, governed by a different statute and different regulations than” the appeal before this Court.

The Board argues that MDL’s notice to Mr. Jaja did not violate his due process rights, and he asserts that “[t]he notices provided to Mr. Jaja via text message[] comported with statutory and regulatory requirements.” Mr. Jaja “received notice of all decisions and

deemed it timely because the appellant did not receive notice of the [LAD’s] decision in the mail.” *Id.* at *4, n.7. The Board extended that deadline for Ms. Dejene because of the known issues with mail delivery during the COVID-19 pandemic. We were “careful to circumscribe our holding to the circumstances” presented in that case in the context of the COVID-19 pandemic. *Id.* at *13.

appeal deadlines, he was afforded appropriate due process throughout the administrative proceedings, and he was not treated differently than any other person similarly situated.” The Board contends that “all agency correspondence, including notices of hearing and the hearing examiner’s decision, were posted to Mr. Jaja’s BEACON account” and “[i]t was incumbent upon Mr. Jaja to view all documents posted” to the account.

Finally, the Board urges that the differences between the regulations that allow the consideration of “good cause excuse to be considered at one level of appeal and not the next level of appeal do[] not indicate an equal protection issue[.]” Instead, the regulatory scheme “shows the legislature’s prudent intent to create a strict deadline, without excuse, in the interest of finality of the agency order when an appeal is filed with the Board.”

The Timeliness of Mr. Jaja’s Appeal

Standard of Review

“In an appeal from judicial review of an agency action, we look through the decision of the circuit court and review the agency’s decision directly.” *W. Montgomery Cnty. Citizens Ass’n v. Montgomery Cnty. Planning Bd. of Maryland-Nat’l Capital Park & Planning Comm’n*, 248 Md. App. 314, 332-33 (2020). We review agency conclusions of law *de novo* for correctness. *Comptroller v. FC-GEN Operations Invs. LLC*, 482 Md. 343, 360 (2022); *see also 901, LLC v. Supervisor of Assessments of Balt. City*, 261 Md. App. 316, 331 (2024) (“An agency decision based on statutory interpretation is a conclusion of law.” (quoting *Kor-Ko Ltd. v. Md. Dep’t of the Env’t*, 451 Md. 401, 412 (2017))). In our *de novo* review, “we may apply a degree of deference to an administrative agency’s legal

conclusion ... premised upon an interpretation of the statutes that the agency administers.” *FC-GEN Operations Invs. LLC*, 482 Md. at 362 (citations omitted). “We give more weight ‘when the interpretation . . . when the agency has applied that interpretation consistently over time[.]’” *Id.* (quoting *Maryland Dep’t of the Env’t v. Cnty. Comm’rs of Carroll Cnty.*, 465 Md. 169, 203-04 (2019)).

Mr. Jaja’s due process violation claim is also a legal question which we review *de novo*. *Regan v. Bd. of Chiropractic Examiners*, 120 Md. App. 494, 509 (1998), *aff’d sub nom. Regan v. State Bd. of Chiropractic Examiners*, 355 Md. 397 (1999).

Labor and Employment Article Section 8-5A-10

As the Supreme Court of Maryland has stated, “‘statutory interpretation begins, and usually ends, with the statutory text itself[.]’” *City of Brunswick v. Handler*, 269 Md. App. 65, 71 (2026) (quoting *Price v. State*, 378 Md. 378, 387 (2003)). Thus, we begin with “the plain language of the statute, and ordinary, popular understanding of the English language dictates interpretation of its terminology.” *Blackstone v. Sharma*, 461 Md. 87, 113 (2018) (quoting *Schreyer v. Chaplain*, 416 Md. 94, 101 (2010)). It is our goal to “ascertain and effectuate the actual intent of the General Assembly in enacting the law under consideration.” *Matter of Collins*, 468 Md. 672, 689 (2020). To accomplish this goal, we “do not read statutory language in a vacuum, nor do we confine strictly our interpretation of a statute’s plain language to the isolated section alone.” *Lockshin v. Semsker*, 412 Md. 257, 275 (2010). Neither do we “add nor delete language so as to reflect an intent not evidenced in the plain and unambiguous language of the statute[.]” *Id.* We are not confined

to only the legislative history of the statute; “[w]e may and often must consider other ‘external manifestations’ or ‘persuasive evidence,’ in order to ascertain the legislative purpose behind a statute.” *Blackstone*, 461 Md. at 113-14 (quoting *Kaczorowski v. Mayor & City Council of Balt.*, 309 Md. 505, 515 (1987)). Examples of these other sources of “persuasive evidence” include “the amendments to the legislation[.]” *Id.* at 114.

With the foregoing standards in mind, we turn to the language of LE § 8-5A-10(a)(1) governing appeals to the Board. The statute provides that in cases “involving a determination or a redetermination of a claim,” the party who seeks an appeal of the LAD’s decision “shall do so within 15 days after notice of the decision of a hearing examiner was mailed to the party at the last known address of the party or otherwise was delivered to the party.”⁷ LE § 8-5A-10(a)(1). For context, we look to the plain language of LE § 8-5A-04, which states that the purpose of the Board is to “hear and decide appeals from the decision of the Lower Appeals Division and claims for benefits referred by the Secretary [of Labor] under § 8-5A-09[.]”⁸

⁷ Although the General Assembly has thrice amended § 8-510 (*see* Acts 1998, c. 499 (House Bill 687), Acts 2008, c. 660 (House Bill 432), § 3, and Acts 2017, c. 251 (House Bill 139)), the General Assembly has not amended the language mandating the 15-day time limit for a decision to be eligible for review by the Board.

⁸ LE § 8-5A-09 states:

(a) The Secretary [of Labor] shall refer a claim for benefits to the Board of Appeals if the determination of the claim involves:

(1) a disqualification that is based on a stoppage of work because of a labor dispute;

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The Maryland General Assembly determined in LE § 8-5A-10(a)(1) to direct that appeals “shall” be filed within 15 days after notice of the decision of a hearing examiner was delivered. “Generally, ... the word ‘may’ in a statute connotes permission or authorization[,] whereas the term ‘shall’ in a statute indicates the legislative intent that the statute be mandatory.” *Bethesda African Cemetery Coal. v. Hous. Opportunities Comm’n of Montgomery Cnty.*, 489 Md. 1, 62 (2024) (quotation marks omitted). Here, by instructing that a party “*shall* . . . file an appeal” within the provided time limit, the text of the statute shows the legislature’s intent to mandate the limited appeal window. LE § 8-5A-10(a)(1) (emphasis added). This contrasts with the language used by the Legislature later in the text of the statute where it states that the Board “*may* initiate a review of the decision of a hearing examiner” by “its own motion” but only if “[w]ithin the time limit for filing an appeal under subsection (a)[.]” LE § 8-5A-10(c) (emphasis added). The use of “may” denotes that the Legislature intended for the Board to have the discretion to take up an appeal of its own accord, but notably, that discretion is restricted by the same

(2) multiple claims; or

(3) a difficult issue of fact or law.

(b) The Board of Appeals:

(1) promptly shall hear and decide a claim that the Secretary [of Labor] refers under this section; and

(2) may designate a special examiner to hear and decide the claim.

time limit within which a party may file an appeal. *Id.* The attendant COMAR regulation was promulgated by the Maryland Department of Labor at the direction of the General Assembly. LE § 8-504 (requiring the MDL “adopt regulations . . . to govern appeals and hearings before the hearing examiners”). The regulation specifies that the time in which an appeal must be filed is 15 days and clarifies that “[t]he period for filing an appeal or a petition for review *may not be extended by the Board of Appeals.*” COMAR 09.32.06.01(b)(3) (emphasis added).

Although often considered together as part of larger procedural schemes, deadlines provided in statutes must be treated differently than those in agency-created regulations. When codified in a statute, a “filing period . . . is jurisdictional” and “when an appeal has not been prosecuted . . . within the time limited by [the statute], it must be dismissed for want of jurisdiction.” *Bowles v. Russell*, 551 U.S. 205, 212-13 (2007) (citation omitted). In contrast, when a deadline is not set by statute and is instead adopted as a “[p]rocedural rule[] . . . for the orderly transaction of . . . business,” such a rule is “not jurisdictional and can be relaxed” by the promulgating agency “in the exercise of its discretion.” *Id.* (quoting *Schacht v. United States*, 398 U.S. 58, 64 (1970)); compare *Rosales v. State*, 463 Md. 552, 568 (2019) (explaining that the 30-day time limit in Maryland Rule 8-202(a) is not jurisdictional because the “the [30]-day requirement no longer appears in the statute.”), with *Downes v. Downes*, 388 Md. 561, 573 (2005) (holding that courts are bound to enforce a time limitation set by the General Assembly where the limitation was provided for by statute).

Thus, even in a case in which the filing in question came only a day late, this Court acknowledged that the MDL Board of Appeals could dismiss an appeal for being untimely if submitted after the statutory deadline. *Johnson v. Dep’t of Emp. Training*, 67 Md. App. 722, 724-26 (1986) (explaining that “any basis” to find that an appeal was submitted after the deadline was grounds for dismissal of the appeal). Interpreting a similar time limit implemented by the Maryland Land Use Article, this Court explained that where the General Assembly provides a “specific remedy and procedure for appeal,” those provisions “must scrupulously be followed.” *Nat’l Institutes of Health Fed. Credit Union v. Hawk*, 47 Md. App. 189, 196 (1980).

ANALYSIS

The Board’s Decision

The dispositive issue in this appeal is whether the Board was legally correct in determining that it lacked jurisdiction to consider Mr. Jaja’s late-filed appeal. We discern no error in the Board’s decision. The language of the statute is unambiguous, requiring that a party who wishes to appeal a LAD decision “shall do so within 15 days after notice of the decision of a hearing examiner was mailed to the party at the last known address of the party or otherwise was delivered to the party.” LE 8-5A-10(a)(1). “Where a deadline ... is jurisdictional, it cannot be waived.” *Cnty. Council of Prince George’s Cnty. v. Palmer Rd. Landfill, Inc.*, 247 Md. App. 403, 420 (2020).

To reach this conclusion, the Board needed only two facts: the date on which Mr. Jaja’s notice of appeal was filed, and the date on which it was due. Mr. Jaja does not

dispute that his appeal to the Board was filed almost two months late. That alone is enough to affirm the Board.

Because the statutory deadline for filing an appeal to the Board is jurisdictional, Mr. Jaja’s various assertions that the Board has discretion to hear untimely appeals are without merit. Mr. Jaja points to the different requirement for filing appeals to the LAD and for filing appeals to the Board, arguing, essentially, that what is “good cause” enough for the LAD should be “good cause” enough for the Board to accept late-filed appeals. What Mr. Jaja fails to consider, however, is that the distinctions he identifies are set firmly in the governing statutes. The Hearing Examiner’s discretion to extend the deadline to appeal to the LAD based on “good cause” is set out in LE § 8-806(e)(2). LE § 8-5A-10(a)(1), by contrast, prescribes a strict 15-day timeframe in which appeals to the Board may be filed.⁹ This is not evidence in Mr. Jaja’s favor; it shows that the General Assembly chose to make one time limit flexible and the other strict.

Mr. Jaja next argues that the Board should have allowed his late-filed appeal, because (he claims) he did not receive notice of the decision of the Hearing Examiner.¹⁰

⁹ Even where the statute *does* allow the Board to exercise discretion to take up appeals on “its own motion[,]” the 15-day window applies. LE § 8-5A-10(c). Put simply, on the sixteenth day, the decision of the LAD Hearing Examiner is beyond the jurisdiction of the Board, with or without good cause.

¹⁰ This firm jurisdictional deadline for appeals does not create a due process problem, because “the Due Process Clause of the Fourteenth Amendment does not require a State to provide appellate review.” *Lindsey v. Normet*, 405 U.S. 56, 77 (1972); *see also Gray v. Fenton*, 245 Md. App. 207, 211 (2020) (“The right to an appeal is not a right required by due process of law, nor is it an inherent or inalienable right. Rather, an appellate right is

(Continued)

But several documents prepared by LAD certify that notice was provided to Mr. Jaja. Under Maryland law, these create a “presumption” that the document “reached its destination at the regular time and was received by the person to whom it was addressed.” *Border v. Grooms*, 267 Md. 100, 104 (1972). Mr. Jaja’s bare assertion that he did not receive the materials does “not, of course, conclusively rebut the presumption of ... receipt.”¹¹ *Id.* Instead, the evidence before the Board includes both the Hearing Examiner’s statement that notice was sent *and* Mr. Jaja’s claim that it was not received. Without more, we cannot say that the Board lacked substantial evidence to support its conclusion that Mr. Jaja failed to timely appeal despite being timely notified.¹²

In sum, we hold that Mr. Jaja’s late-filed appeal was outside of the Board’s jurisdiction by virtue of LE § 8-5A-10(a)(1) and affirm the Board’s decision to not consider his claims.

**JUDGMENT OF CIRCUIT COURT OF
BALTIMORE CITY AFFIRMED; COSTS
TO BE PAID BY THE APPELLANT.**

entirely statutory in origin and no person or agency may prosecute such an appeal unless the right is conferred by statute.” (cleaned up)).

¹¹ We note that Mr. Jaja did not petition the LAD for reconsideration of the Hearing Examiner’s decision based on a good cause argument before appealing to the Board.

¹² We thus reject Mr. Jaja’s argument that treating those who receive notice differently than those who do not receive notice violates equal protection. **A’ee Br. at 14.** Because Mr. Jaja offered the Board no evidence apart from his own denial, as a matter of law, Mr. Jaja received notice.