

**BEFORE THE STATE OF ALASKA OFFICE OF ADMINISTRATIVE HEARINGS
ON REFERRAL BY THE COMMISSIONER OF
THE DEPARTMENT OF REVENUE**

IN THE MATTER OF
M.M.

OAH No. 05-0063-PFD

2001 & 2002 Permanent Fund Dividends

ORDER OF DISMISSAL

On January 24, 2005, the Alaska Department of Revenue Permanent Fund Dividend Division (Division) filed a Motion to Dismiss, asserting that Ms. M.'s Request for Formal Hearing was not timely filed and asking that the filing deadline in this case be enforced.

This case is Ms. M.'s late appeal of the Division's denial of her 2001 and 2002 Permanent Fund Dividend (PFD) applications. The Division denied these applications because the Division determined that Ms. M. was on disqualifying absences attending a college that was not accredited or approved for vocational training by the Alaska Commission on Postsecondary Education.

I, Mark T. Handley, Administrative Law Judge for the Alaska Office of Administrative Hearings was appointed to hear this appeal by the Chief Administrative Law Judge, Terry Thurbon.

Ms. M. responded to the Division's motion in a letter dated February 11, 2005. She admits that her request for a formal hearing was not filed before the appeal deadline. Ms. M. argues that the denial of her 2001 and 2002 PFD applications should be overturned because her brother received PFDs for years when he went to the same school that she went to.

The Division argues that Ms. M.'s appeal should be dismissed because her 2001 and 2002 PFD applications were correctly denied, and because she failed to file her request for a formal hearing within 30 days of the date of issuance of the Informal Conference Decision, as required by 15 A A C 05.030(a).

The Informal Conference Decision upholding the denial of Ms. M.'s 2001 and 2002 PFD applications was issued July 31, 2003. The deadline for filing the request for formal hearing to appeal the denial of Ms. M.'s 2001 and 2002 PFD applications was August 30, 2003. Ms. M.'s request for formal hearing was postmarked January 10, 2005.

Ms. M. is not entitled to a review of the merits of the Division's denial of her 2001 and 2002 PFD applications because she did not comply with the requirements for requesting a hearing.¹ Ms. M. has not provided an explanation that would excuse her failure to file her appeal until over a year after the deadline.²

Therefore, the Division's Motion to Dismiss is GRANTED. The formal hearing scheduled for 11:00 A.M. on March 8, 2005 is cancelled. Ms. M.'s appeal of the informal conference decision upholding the denial of her 2001 and 2002 PFD applications, is dismissed.

DATED this 1st day of March, 2005.

By: Mark T. Handley
Administrative Law Judge

Adoption

This Order is issued under the authority of AS 43.05.010 and AS 44.17.010. I, Terry Thurbon, Chief Administrative Law Judge, on behalf of the Commissioner of Revenue, order that this decision and order concerning the M.M.'s 2001 and 2002 Permanent Fund Dividend applications be adopted as of this date and entered in her file as the final administrative determination in this appeal.

Reconsideration of this decision may be obtained by filing a written motion for reconsideration within 10 days after the adoption of the written decision of the hearing officer, pursuant to 15 A A C 05.035(a). The motion must state specific grounds for relief, and, if mailed, be addressed: Commissioner's Office Appeals (Reconsideration), Alaska Department of Revenue, P.O. Box 110400, Juneau, Alaska 99811-0400.

¹ See 15 A A C 05.010 & 15 A A C 05.030. See also *Maywald v. State, Dept. of Revenue*, No. 3AN-95-375 Ci. (Alaska Super., October 31, 1995) at 4 - 5.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 25.27.210 within 30 days of the date of this decision.

DATED this 1st day of March, 2005.

By: Terry Thurbon

Chief Administrative Law Judge

The undersigned certifies that this date an exact copy of the foregoing was provided to the following individuals:

PFD Division
3/1/05