

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

IN THE MATTER OF

M.N.

Case No. OAH 05-0099-PFD

2004 Permanent Fund Dividend

**DECISION & ORDER**

**I. Introduction**

M.N. timely applied for a 2004 permanent fund dividend. The Permanent Fund Dividend Division determined that Ms. N. was not eligible, and it denied the application initially and at the informal appeal level. Ms. N. requested a formal hearing by written correspondence. The administrative law judge affirms the division's decision.

**II. Facts**

The facts in this case are not in dispute. During 2003 Ms. N. served five days for a charge of drinking in public, a misdemeanor under a Fairbanks ordinance. Before 2003, Ms. N. had been convicted of either a felony or two misdemeanors.

**III. Discussion**

A person is not eligible for a permanent fund dividend if the person was incarcerated at some during the qualifying year as the result of a misdemeanor conviction in this state, and the person has previously been convicted of a felony or two prior misdemeanors.<sup>1</sup>

In her formal hearing request, Ms. N. writes,

I was got for open container/drinking in public. I didn't go to court, so in up on warrant for not going to court for what I did. I spend 5 days in Fairbanks Correctional Center - year 2003.

I make some mistakes in my alcohol situation but know I'm seeking help for my problems. I know you don't what to hear my personal problems. I believe I did my time honestly serving my jail time to the fullness as you can see the paper I'm sending offender history. I would like to get half of my PFD if that possible. I would sure like that thank you.

<sup>1</sup> AS 43.23.005(d)(2).

The law does not allow partial payment of a dividend. It also does not allow the administrative law judge to consider the applicant's personal situation. The administrative law judge may only determine whether the applicant qualifies for a dividend under the law.

I respect the fact that Ms. N. has been getting help and gaining control over her situation. Hopefully in future years she will qualify for dividends as a result of her efforts. In this case, however, the law gives me no choice but to affirm the division's decision to deny Ms. N.'s application.

#### **IV. Conclusion**

Ms. N. was incarcerated for a part of 2003 as the result of the conviction of a misdemeanor in this state. She has previously been convicted of either a felony or at least two other misdemeanors. The division was properly following the law when it made the decision to deny her application for a 2004 dividend.

#### **V. Order**

IT IS HEREBY ORDERED that the decision of the Permanent Fund Dividend Division to deny the application of M.N. for a 2004 permanent fund dividend be AFFIRMED.

DATED this 28th day of September, 2005

By: DALE WHITNEY  
Administrative Law Judge

### **Adoption**

This Order is issued under the authority of AS 43.05.010 and AS 44.17.010.1, Dale Whitney, Administrative Law Judge, on behalf of the Commissioner of Revenue, order that this decision and order relating to the eligibility of M.N. for a 2004 permanent fund dividend be adopted 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 date of this decision, pursuant to 15 A A C 05.035(a). The motion must state specific grounds for relief, and, if mailed, should be addressed to: Commissioner's Office Appeals (Reconsideration), Alaska Department of Revenue, P.O. Box 110400, Juneau, Alaska 99811-0400.

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 28th day of August, 2005

By: DALE WHITNEY  
Administrative Law Judge

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

PFD Division  
9/28/05