

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

IN THE MATTER OF

I.D.-P. and C. P.

Case No. OAH 05-0176-PFD

2004 Permanent Fund Dividend

DECISION & ORDER

I. Introduction

C.P. and I.D.-P. applied for 2004 permanent fund dividends. The Permanent Fund Dividend Division determined that the applicants were not eligible, and it denied the applications initially and at the informal appeal level. The applicants requested a formal hearing by written correspondence. The administrative law judge affirms the division's decision,

II. Facts and Discussion

In the year 2004 there were three ways a person could apply for a PFD. The first was the traditional method of filling out a paper application and mailing it or delivering to the PFD Division. The second method was to file online, and then print a signature page, sign it and mail it to the division. The third way to file was to first enroll in the state's new MyAlaska system, and then file a PFD application online using MyAlaska. People who enroll in MyAlaska have their identity verified and are issued a password to use their MyAlaska account. Once in a personal MyAlaska account, a person can apply for a PFD online and sign the application by just clicking a box; it is unnecessary for MyAlaska applicants to print and mail in a signature page. But it is necessary to set up a MyAlaska account, obtain a password, and verify the person's identity before the person can apply for a PFD. Eventually, the state plans to use the MyAlaska system for people to access a number of state services, but in 2004 the only thing one could use it for was to apply for a PFD. The Alaska Department of Administration's Enterprise Technology Service manages and maintains MyAlaska, while PFD applications are managed by the Department of Revenue's PFD Division.

The issue in this case is factual: whether the applicants filed online in January, 2004. The applicants submitted paper applications in October, 2004 in order to initiate the appeal process, but they contend they successfully filed online in January. There is no dispute that in order to be

timely, PFD applications must be filed during the period from January 2 through March 31 of the dividend year.¹

In a letter to the division, Mr. P. explains the situation as it appears to him:

I filed on line, through the Internet, in January, 2004. I had a problem, that said it did not recognize my e-mail address, I then called the local PFD office and explained to the Lady, I was having a problem, she gave me a phone number to call in Juneau. I called the number in Juneau, and explained to that Lady, that while trying to file on line I kept getting an error message that said, it did not recognize my e-mail address. I told her my ISP (Internet Service Provider) had recommended, I change my e-mail address, because I had been having a lot of problems with Spam and viruses. She asked for my Social security number etc, And she said she would change my e-mail address to my new address. And she told me I had been filed now for 2004, and there was no problem. She even read back to me all of the information on our Applications. I filed for both my wife and my self.

I asked her if I should resubmit our Applications, she said no. Do not file again, your Application is current, and on file do not file again. After thinking this over, I think the Lady in Juneau was reading back to me the 2003 application and she assumed, our application had gone through properly, she convinced me.

From reading Mr. P.'s letter and the division's explanation of how the various state computer systems interact, I find the following facts more likely than not to be true. When Mr. P. attempted to enter the MyAlaska system, he called the PFD Division for assistance. The person he talked to recognized the problem as being with MyAlaska, not with the PFD online application. That person referred Mr. P. to the MyAlaska help desk with the Department of Administration. Mr. P. contacted my Alaska, and that person fixed the problem involving Mr. P.'s email address. At this point a misunderstanding occurred. Mr. Pmm asked if he should resubmit or reapply, and the person at the help desk said that would be unnecessary. But Mr. P. was asking about his PFD application. The person at the help desk, who was not a part of the PFD Division, was talking only about myAlaska. At this point, it was not necessary for Mr. P. to reapply or re-enroll in myAlaska; his identity had been properly verified. But Mr. P. still needed to login to the system to submit a PFD application, or else submit an application in one of the traditional ways. Further, it would be necessary for Ms. D.-P. in MyAlaska using her own identity, and then submit a PFD application through her own account, or else for her to apply in the traditional manner.

¹ AS 43.23.011.

Although it was an honest mistake and Mr. P. and Ms. D.-P. believed in good faith that they had applied in a timely manner, the law requires that applications be filed during the application period in order for applicants to qualify for permanent fund dividends. There are no provisions in the law that would allow the division or the administrative law judge to grant the applications in this case.³ The division's decision should be affirmed.

On the formal hearing request form, in the space for other relevant facts that should be considered, the applicants wrote, "In not receiving the 2004 dividend we are not eligible for the 2005 dividend." This is incorrect. If the applicants had moved away from Alaska during 2004, it would be true that they would have to wait for another year to become residents again. But because there is no evidence suggesting that the applicants severed their Alaska residency, nothing in this decision should affect the applicants' eligibility for 2005 and subsequent dividends.

IV. Conclusion

Mr. P. and Ms. D.-P. did not apply for 2004 permanent fund dividends before the end of the 2004 application period. The division was correctly following the law when it made the decision to deny their 2004 PFD applications.

V. Order

IT IS HEREBY ORDERED that the decision of the Permanent Fund Dividend Division to deny the applications of C.P. and I.D.-P. for 2004 permanent fund dividends be AFFIRMED.

DATED this 3rd day of November, 2005.

By: DALE WHITNEY
Administrative Law Judge

² AS 43.23.011.

³ 15 A A C 23.133 permits granting of late applications for certain disabled persons, children and wards of social service agencies. AS 43.23.011 allows late applications for certain members of the military who were in combat situations during the application period. None of these provisions apply to the applicants in this case.

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 C.P. and I.D.-P. for 2004 permanent fund dividends be adopted and entered in their 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 3rd day of November, 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
11/3/05