

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

IN THE MATTER OF

D.O.

Case No. OAH 05-0199-PFD

2003 Permanent Fund Dividend

ORDER GRANTING MOTION TO DISMISS

I. Introduction

B.O. applied for a 2003 permanent fund dividend on behalf of her daughter, D.O. The Permanent Fund Dividend Division determined that D. was not eligible, and it denied the application initially and at the informal appeal level. Ms. O. requested a formal hearing. The PFD Division filed a motion to dismiss the case. Ms. O. opposed the motion. The administrative law judge grants the motion.

II. Facts

Ms. O. signed D.'s application on May 21, 2003. On May 28, 2003 the PFD Division denied the application because it had not been filed before the filing deadline. On September 24, 2004 Ms. O. signed a request for an informal conference, and the division received it on October 6, 2004.

III. Discussion

In order to be timely, a PFD application must be filed by March 31 of the dividend year.¹ Ms. O. did not file D.'s application on time because she was waiting to obtain a birth certificate and social security number. This information could have been mailed later, but the application needed to be mailed before March 31, 2003.

An appeal of a PFD denial must be filed within sixty days after the dividend is denied. The appeal form Ms. O. submitted had a stamp at the top stating that it would be denied if it was postmarked after July 27, 2003. Ms. O. has not explained why she waited September 24, 2004, more than a year after the division's decision, to appeal.

¹ AS 43.23.011; 15 A A C 23.103(a), (g).

² 15 A A C 05.010(b)(5).

While it may be possible to waive the deadline for an appeal,³ there is no provision of law that would allow the division or the administrative law judge to grant D.'s application, because it was not filed on time. The division's motion should be granted. D. may be able to apply for her 2003 dividend when she turns 18 and becomes an adult. D.'s parents should remember this and remind her to her apply for her 2003 dividend immediately on her 18th birthday. This opportunity will only last for one year after D. becomes a legal adult.

IV. Conclusion

Because Ms. O.'s appeal was not timely, the division's motion to dismiss should be granted.

V. Order

IT IS HEREBY ORDERED that the Permanent Fund Dividend Division's Motion to Dismiss Appeal Request be GRANTED, and that no further proceedings be scheduled in this matter.

DATED this 16th 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 D.O. for 2003 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.

³ 15 AAC05.030(k).
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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 16th day of September, 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
9/16/05