

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

IN THE MATTER OF

C.D.M.

OAH No. 05-0412-PFD

2004 Permanent Fund Dividend

ORDER GRANTING MOTION TO DISMISS

On May 27, 2005, the Alaska Department of Revenue Permanent Fund Dividend Division (Division) filed a Motion to Dismiss, asserting that C.D.M.'s request for an informal appeal was not timely filed and asking that the filing deadline in this case be enforced. Mr. M. did not respond to the motion. The Administrative Law Judge grants the Division's motion.

This case is Mr. M.'s late appeal of the Division's denial of his 2004 Permanent Fund Dividend (PFD) application. The Division denied this application because the Division determined that Mr. M. did not show that he had re-established residency in Alaska before January 1, 2003.

The Division argues that Mr. M.'s appeal should be dismissed because he failed to file his request for an informal appeal within 60 days of the date of issuance of the Notice of Denial of his 2004 PFD application, as required by 15 A A C 05.010.

The Notice of Denial explaining the denial of Mr. M.'s 2004 PFD application was issued, January 7, 2005.¹ The deadline for filing the request for an informal appeal for Mr. M.'s 2004 PFD application was March 8, 2005.² Mr. M.'s request for an informal appeal was postmarked April 7, 2005.³

Mr. M. is not entitled to a review of the merits of the Division's denial of his 2004

¹ Ex.4.

² See 15 A A C 05.010 & 15 A A C 05.030.

³ Ex.5.

PFD application.⁴ It would not work an injustice to strictly apply the appeal deadline in this case.⁵ Mr. M. has not provided an explanation that would excuse his failure to file his appeal until a month after the deadline.⁶

Therefore, the Division's Motion to Dismiss is GRANTED. This case will not be scheduled for a formal hearing. The Division's denial of C.D.M.'s application for a 2004 PFD is affirmed.

DATED this 12th day of December, 2005.

By: Mark T. Handley
Administrative Law Judge

Adoption

This Order is issued under the authority of AS 43.05.010 and AS 44.17.010.1, Mark T. Handley, Administrative Law Judge, on behalf of the Commissioner of Revenue, order that this decision and order relating to the eligibility of C.D.M. for a 2004 permanent fund dividend be adopted and entered in his 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

⁴ *Maywald v. State, Dept. of Revenue*, No. 3AN-95-375 Ci. (Alaska Super., October 31, 1995) at 4 - 5.

⁵ 15 A A C 05.030(k).

⁶ 15 A A C 05.030(k).

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 12th day of December, 2005

By: Mark T. Handley
Administrative Law Judge

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

PFD Division
12/12/05