# BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL BY THE COMMISSIONER OF REVENUE

In the Matter of :	)	
	)	
C. M. K.	)	
	)	OAH No. 08-0519-PFD
2007 Alaska Permanent Fund dividend	j	DOR No. 2007-063-4078

# CORRECTED<sup>1</sup> DECISION and ORDER

#### I. Introduction

C. M. K. filed a late application for a 2007 Alaska Permanent Fund dividend. The Permanent Fund Dividend Division (Division) does not have a timely application on file, and it denied his late application. Mr. K. filed a timely appeal and requested a hearing by correspondence. The case was referred to the Office of Administrative Hearings. Based on the evidence in the record, the Division's decision is affirmed.

#### II. Facts

C. M. K. is an Alaska resident who lives in Anchorage. He has routinely timely applied for and received an annual Alaska Permanent Fund dividend.

Mr. K. asserts that he filled out an application for a 2007 dividend and either mailed it or delivered it to the Division prior to March 31, 2007. The Division has no timely application from Mr. K. on file, and Mr. K. has no mailing receipt, return receipt, or other documentary evidence that he timely mailed or delivered his application.

#### III. Discussion

An application for a permanent fund dividend must be filed during the period beginning January 1 and ending March 31 of the dividend year.<sup>2</sup> The Department of Revenue (Department) has authority to prescribe application procedures by regulation.<sup>3</sup> The Department's regulations state that "[a]n application must be received by the department or postmarked during the application period...to be considered timely."<sup>4</sup> If an individual timely submits an application, but the division does not have the application on file, the individual may

A manifest error has been corrected in the first sentence: the corrected date is 2007.

<sup>&</sup>lt;sup>2</sup> AS 43.23.011(a).

<sup>&</sup>lt;sup>3</sup> AS 43.23.055(2).

<sup>&</sup>lt;sup>4</sup> 15 AAC 23.103(a).

submit a request to reapply.<sup>5</sup> A request to reapply when a timely submitted mailed application is not on file must be accompanied by specified evidence that an application was timely filed: either a mailing receipt, or a mailing return receipt documenting delivery to the department or other evidence of receipt by the department.<sup>6</sup>

Mr. K.'s father asserts that an application for C. K. was either timely mailed or delivered. However, an application that has been timely mailed or delivered may be lost, misdirected, destroyed, stolen or for any of a myriad of reasons not be retained in the Division's files when the time comes to pay dividends. When that occurs, the Department's regulations expressly provide that unless the applicant has the necessary documentary evidence of timely mailing or delivery, a late application will not be paid. The administrative law judge is bound by the Department's regulations. Mr. K.'s appeal must therefore be denied.

### IV. Conclusion

C. M. K. is ineligible for a 2007 dividend.

## V. Order

1. The Division's denial of C. M. K.'s application for a 2007 Alaska Permanent Fund dividend is AFFIRMED.

DATED December 18, 2008.	Signed
	Andrew M. Hemenway
	Administrative Law Judge

<sup>&</sup>lt;sup>5</sup> 15 AAC 23.103(h).

<sup>6 15</sup> AAC 23.103(h)(1), (2).

# **Adoption**

This Order is issued under the authority of AS 43.05.010 and AS 44.17.010. The undersigned, on behalf of the Commissioner of Revenue and in accordance with AS 44.64.060, adopts this Corrected Decision and Order as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 18th day of December, 2008.

By: Signed
Signature
Andrew M. Hemenway
Name
Administrative Law Judge
Title

[This document has been modified to conform to technical standards for publication.]