

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

In the Matter of :)	
)	
E. P. A., JR.)	
)	OAH No. 08-0595-PFD
<u>2007 Alaska Permanent Fund dividend</u>)	DOR No. 2008-025-2454

DECISION

I. Introduction

E. P. A., Jr. filed a late application for a 2007 Alaska Permanent Fund dividend. The division denied the late application. Mr. A. filed a timely appeal and requested a hearing by correspondence. Because Mr. A. has not shown that the division’s decision was in error, the division’s decision is affirmed.

II. Facts

E. P. A., Jr., moved to Alaska as a teenager in 1938. Apart from service in the Army Air Corps during World War II and a few other absences, he’s lived in Alaska since then.

After the application deadline for the 2007 dividend had passed, Mr. A. obtained an application form from the Permanent Fund Dividend Division.¹ He completed that application and filed it with the division on December 28, 2007.² The division denied that application because it was late.

Mr. A.’s request for appeal asserts that he filled out an earlier application, but that he doesn’t recall when or how he submitted it.³ The division does not have a timely written or online application for Mr. A. on file.⁴

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.⁵ The department has authority to prescribe application procedures by regulation.⁶ The department’s regulations state that “[a]n application

¹ Ex. 1, p. 1.
² *Id.*
³ Ex. 3, p. 2.
⁴ Ex. 6, Ex. 8.
⁵ AS 43.23.011(a).
⁶ AS 43.23.055(2).

must be received by the department or postmarked during the application period...to be considered timely.”⁷ If an individual timely submits an application, but the division does not have the application on file, the individual may submit a request to reapply.⁸ A request to reapply when a timely 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,⁹ or, for an online application, a copy of the computer generated page with the applicant’s confirmation number.¹⁰

Mr. A. does not recall when or how he filed a prior application. It is possible that he filed a timely application: as a result of human error, mail may be lost in transit, or the division may fail to correctly record receipt of a timely mailed application; an online application may be submitted with erroneous identifying information. In this case, for whatever reason, the division does not have a timely application for Mr. A. on file.

It is an applicant’s responsibility to ensure timely delivery of an application.¹¹ In order to receive a dividend when the division does not have a timely application on file, the division’s regulation referenced above specifically requires that the person must submit evidence of timely delivery to the department.¹² Because Mr. A. does not have the require evidence, under the division’s regulations his late application cannot be accepted.

IV. Conclusion

Mr. A. failed to show that the division’s denial of his late application was in error: the division does not have a timely application on file, and Mr. A. did not submit the evidence required by law to support a request for reapplication.

V. Order

1. The division’s denial of the application of E. P. A. for a 2007 Alaska Permanent Fund dividend is AFFIRMED.

DATED February 25, 2009.

Signed _____
Andrew M. Hemenway
Administrative Law Judge

⁷ 15 AAC 23.103(a).
⁸ 15 AAC 23.103(h).
⁹ 15 AAC 23.103(h)(1), (2).
¹⁰ 15 AAC 23.103(h)(3).
¹¹ 15 AAC 23.103(g).
¹² 15 AAC 23.103(h).

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 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 26th day of March, 2009.

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

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