

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

In the Matter of :)	
)	
A. O. and)	
I. O., a minor.)	OAH No. 09-0170-PFD
<u>2008 Alaska Permanent Fund dividend</u>)	DOR Nos. 2008-064-8656/2008-064-8657

DECISION

I. Introduction

A. O. attempted to submit timely electronic applications for a 2008 Alaska Permanent Fund dividend for himself and his minor son. The Permanent Fund Dividend Division did not record the receipt of an electronic application for either of them and it denied his subsequent written reapplications. Mr. O. filed an appeal and requested a hearing. The case was referred to the Office of Administrative Hearings and a hearing was conducted on April 27, 2009. Mr. O. participated and the division was represented by Peter Scott.

Because the division does not have a timely electronic application on file, and Mr. O.'s reapplication is not accompanied by the documentation required by law, his appeal is denied.

II. Facts

A. O. and his son I. are Alaska residents who are eligible for 2008 dividends if they have met the applicable filing requirements.

Mr. O. used a computer to prepare an online application during the application period. He believes that he submitted the application as directed by the online instructions, but he does not have a confirmation number and he was unable to print out a confirmation page because he did not have a printer available. The division has no record of an attempt to file the online application or of having issued a confirmation number for Mr. O.¹

Because he had not received confirmation of a timely filing, on September 25, 2008, shortly before the 2008 dividends were due to be deposited, Mr. O. called the Alaska Permanent Fund Dividend Division to check on the status of his application. He spoke with a representative of the division and after speaking with her Mr. O. was under the impression that the division had his application on file and that he would receive his dividend by direct deposit as in prior years.

¹ Ex. 6.

Mr. O. did not receive a dividend, and in November he called the division again. He was told that the division did not have an application on file for either of the O.s.

III. Discussion

Generally, to receive an Alaska Permanent Fund dividend, an eligible individual must file an application no later than March 31 of the dividend year.² The individual must apply using the application form provided by the division, which, to be considered timely, must be received no later than the filing deadline.³ The division provides paper application forms and, through its website, an online application form. The division's regulations state that "It is an individual's responsibility to ensure that an application is timely delivered to the department.... An online application must be received electronically by the department by midnight...on the last day of the application period...."⁴

If an individual timely files an application, but the division does not have the application on file, the individual may submit a request to reapply.⁵ A request to reapply must be accompanied by one or more specified types of evidence that an application was timely filed. For online filings, the request to reapply must be accompanied by the "a copy of the computer generated page containing the permanent fund dividend number received by the applicant after completing the online application process."⁶

These regulations, read together, provide for payment to eligible applicants when either (1) the division has a timely application on file; or (2) the division does not have a timely application on file, but a timely reapplication is filed, supported by the required documentation. In this case, it is undisputed that the department does not have a timely online application on file, and Mr. O. does not have a copy of a computer generated confirmation page, which is required as a condition of reapplication.

In addition, although Mr. O. contacted the division by telephone and recalls being told that his application had been received, that call was not made until after the filing period had ended. Finally, the division has no record that Mr. O. had submitted an incomplete online application.

² AS 43.23.005(a)(1); -.011(a). Certain individuals on active duty in the armed forces may apply at a later date. *See* AS 43.23.011(c).

³ 15 AAC 23.103(a).

⁴ 15 AAC 23.103(g).

⁵ 15 AAC 23.103(h).

IV. Conclusion

The division's regulations mandate the denial of Mr. O.'s applications for the 2008 dividend for himself and for his son, and the division's decision is therefore sustained. **However, I. O. case may be eligible to apply for a 2008 dividend upon reaching 18 years of age or otherwise emancipating.⁷ This application must be made before the child's nineteenth birthday, or this opportunity will be permanently lost. It is important that family members remember this right and remind the child to apply as soon as the child becomes an adult.**

DATED July 10, 2009.

Signed

Andrew M. Hemenway
Administrative Law Judge

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 11th day of August, 2009.

By: Signed

Signature
Andrew M. Hemenway

Name
Administrative Law Judge

Title

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

⁶ 15 AAC 23.103(h)(4).

⁷ 15 AAC 23.133(b)(3).