

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

IN THE MATTER OF)
)
 P. R. D.)
)
) OAH No. 09-0175-PFD
2008 Permanent Fund Dividend) Agency No. 2008-063-1031

DECISION

I. Introduction

P. R. D. applied for the 2008 permanent fund dividend (PFD). The Permanent Fund Dividend Division determined that Mr. D. filed his application after the filing deadline and for that reason it denied his application initially and at the informal appeal level. He requested a formal hearing which was held on April 28, 2009. Mr. D. participated telephonically and represented himself. Kimberly Colby participated telephonically and represented the division.

II. Facts

Mr. D. recalled placing his 2008 PFD application in the mail before the March 31, 2008 filing deadline. It was either lost or returned to him for insufficient postage.¹ The first application received by the division was signed and dated April 2, 2008.² A second application dated April 18, 2008, was received by the division on April 22, 2008.³ In September 2008 Mr. D. completed and filed a 2008 Veteran's Adult Alaska Resource Rebate Form (VETA).⁴ VETA permits persons eligible for veterans' benefits under 38 U.S.C. §§1315, 1513, 1521, 1541, and 1542 to apply for a \$1,200 non PFD Alaska resource rebate payment.⁵ At hearing Mr. D. agreed that he was not eligible for the VETA program.

III. Discussion

A mailed application must be postmarked during the application period to be considered timely filed.⁶ It is an applicant's responsibility to ensure that their application is timely delivered to the division.⁷ The period for applying for a dividend begins January 1 and ends on March 31 of the

¹ D. Testimony; Exhibit 1; Exhibit 5 at 2; Exhibit 8 at 2.

² Exhibit 1 at 1.

³ Exhibit 11.

⁴ Exhibit 12.

⁵ 2008 Sess. Law of Alaska, Fourth Special Session, ch. 2, § 5(b).

⁶ 15 AAC 23.103(a).

⁷ 15 AAC 23.103(g).

dividend year.⁸ The legislature provided very few exceptions to this bright line rule.⁹ There is a provision that permits an individual to apply for a PFD after the application deadline if the individual is a member of the armed services and eligible for hostile fire or imminent danger pay.¹⁰ There are also provisions that effectively allow certain minors and disabled people (as defined by AS 43.23.095(2)) to apply after the deadline.¹¹ At hearing, Mr. D. acknowledged that he did not file timely his 2008 PFD application nor did he qualify for any of the exceptions that would permit consideration of a late filed PFD application.¹² However, he questioned whether his ineligibility for a 2008 PFD included the portion of the dividend designated as the “Alaska resource rebate.”

Through legislation passed in 2008, Alaskans eligible for the 2008 PFD were given \$1200 in addition to the dividend amount calculated in the usual fashion.¹³ In pertinent part, the legislation states “[t]o provide residents of the state with an Alaska resource rebate, *the amount of the 2008 permanent fund dividend shall be increased.*”¹⁴ The plain language of the law shows that the \$1200 resource rebate increased the amount of the PFD. Though the purpose of adding this fixed amount to the calculated dividend amount was special—i.e., to provide residents extra dividend dollars in times of high energy costs—the law does not separate the \$1200 from the rest of the PFD.

IV. Conclusion

The Alaska resource rebate increased the total amount of the 2008 PFD. Because Mr. D. is not eligible for the 2008 PFD, he is not eligible for that portion of the PFD designated as the “Alaska resource rebate.” The decision of the Permanent Fund Dividend Division to deny the application of P. R. D. for the total 2008 permanent fund dividend is AFFIRMED.

DATED this 10th day of June, 2009.

By: Signed _____
Rebecca L. Pauli
Administrative Law Judge

⁸ AS 43.23.011(a).

⁹ AS 43.23.011(b), (c); AS 43.23.055(3), (7).

¹⁰ AS 43.23.011(b), (c).

¹¹ 15 AAC 23.133.

¹² D. Testimony; Exhibit 1; Exhibit 5 at 2; Exhibit 8 at 2.

¹³ See 2008 Sess. Law of Alaska, Fourth Special Session, ch. 2, § 5.

¹⁴ *Id.* at ¶ 5(a) (emphasis added).

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 10th day of July, 2009.

By: Signed
Signature
Rebecca L. Pauli
Name
Administrative Law Judge
Title

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