

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

In the Matter of :	)	
	)	
C. S. D.	)	
	)	OAH No. 09-0191-PFD
<u>2008 Alaska Permanent Fund dividend</u>	)	DOR No. 2008-063-0700

**DECISION**

**I. Introduction**

C. S. D. mailed her application for the 2008 Alaska Permanent Fund dividend on March 30, 2008. The application was postmarked after March 31, and the Permanent Fund Division denied it as untimely. Ms. D. filed a timely appeal and requested a hearing by correspondence. The case was referred to the Office of Administrative Hearings. The division’s decision is affirmed.

**II. Facts**

C. S. D. lives in Kodiak. On the weekend of March 29-30, 2008, she visited her mother, E. D., who also lives in Kodiak. On Sunday, March 30, E. drove her daughter back into town. The two drove by the post office, and C. D. deposited her application for the 2008 Alaska Permanent Fund dividend in a mailbox.

The envelope containing the application was postmarked after March 31, and was received by the Permanent Fund Divided Division on April 7.

**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>1</sup> The department has authority to prescribe application procedures by regulation.<sup>2</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... . An application mailed before, but postmarked after, the end of the application period is not timely filed.”<sup>3</sup> Consistently with that regulation, the department will deny an application postmarked after March 31 of the dividend year unless the applicant “provides the department with an official statement...that describes the specific circumstances

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<sup>1</sup> AS 43.23.011(a).

<sup>2</sup> AS 43.23.055(2).

under which the postal service incorrectly posted the...application or caused a delay in posting.”<sup>4</sup>

In this case, both Ms. D. and her mother state that the application was deposited in a mail collection box on March 30, in ample time to have been postmarked prior to the March 31 deadline. There is no explanation for why the envelope was not timely postmarked. The late postmark could be the result of some human or mechanical error. However, in the absence of a statement from a postal official “that describes the specific circumstances under which the postal service incorrectly posted the ...application or caused a delay in posting,” the division, and the administrative law judge, lack authority to accept the late application. Alaska law specifically provides that an application mailed prior to the deadline, but postmarked on after March 31, is untimely. Only if the applicant establishes that the late postmark was the result of an error by the postal service is a late postmark acceptable. Ms. D. failed to establish that the late postmark was the result of an error by the postal service.

#### **IV. Conclusion**

The application of C. S. D. was correctly denied. The division’s decision is sustained.

DATED July 10, 2009.

*Signed* \_\_\_\_\_  
Andrew M. Hemenway  
Administrative Law Judge

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<sup>3</sup> 15 AAC 23.103(a).

<sup>4</sup> 15 AAC 23.103(g).

## 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.]