

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

IN THE MATTER OF)	
)	Case No. OAH 09-0469-PFD
P. K.)	Agency No. 2008-048-0180
)	
<u>2008 Permanent Fund Dividend</u>)	

DECISION

I. Introduction

P. K. applied for a 2008 permanent fund dividend after the application deadline. The Permanent Fund Dividend Division (Division) determined that Ms. K. was not eligible, and it denied the application initially and at the informal appeal level. Ms. K. requested a formal hearing by correspondence. Administrative Law Judge Mark T. Handley reviewed the record and decided the appeal. Ms. K. did not file any additional arguments or evidence. Bethany Chase represented the PFD Division. The Division timely filed the agency record and a position paper. The administrative law judge affirms the Division’s decision.

II. Facts

Ms. K. admits that her 2008 PFD application was filed after the 2008 PFD application deadline.¹ In her request for a formal hearing, Ms. K. explained that she thought during all of 2008 that she was not eligible for a 2008 PFD, because she had missed the application deadline. Ms. K. explained she had filled out her 2008 PFD application in February of 2009 because she realized in that month that her husband would still be eligible despite the missed deadline because he was disabled, and she thought she might also be able to file late because she was his care provider.² Ms. K. explained that she believed she should be eligible under “AS 43.23.008-(6).”³

III. Discussion

In order to qualify for a permanent fund dividend, a person must file an application.⁴ Applications must be filed between January 2 and March 31 of the dividend year.⁵ According to 15 AAC 23.103(g):

¹ Ms. K.’s Request for a Formal Hearing at exhibit 5, page 4.

² Ms. K.’s Request for a Formal Hearing at exhibit 5, page 4.

³ Ms. K.’s Request for a Formal Hearing at exhibit 5, page 4.

⁴ AS 43.23.005(a)(1).

⁵ Alaska Statute 43.23.008(a)(6) Merely provides: Subject to (b) and (c) of this section, an otherwise eligible individual who is absent from the state during the qualifying year remains eligible for a current year permanent fund dividend if the individual was absent. . . (6) providing care for a parent, spouse, sibling, child, or stepchild with a critical life-

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 Alaska Standard Time on the last day of the application period. An applicant's proof of timely filing an online application is a copy of the computer generated confirmation page containing the confirmation number received by the applicant after completing the online filing process that shows that the online application was timely delivered to the department.

There is no Alaska Statute 43.23.008-(6). Alaska Statute 43.23.008(a)(6) allowed Alaskans who were providing care to a spouse with a life threatening illness to be outside Alaska for more than 180 days in 2007 without being disqualified for a 2008 PFD. This statute did not, however, allow an individual providing such care to file a 2008 PFD application for themselves after the deadline of March 31, 2008.⁶ Unfortunately, there is no such provision in statute or regulation.⁷

Ms. K. is an Alaska resident who would otherwise be eligible for a dividend. However, the laws regarding permanent fund dividends do not allow the administrative law judge to make exceptions to the rules regarding filing of applications, even in particularly compelling cases.

IV. Conclusion

The Division was correctly following the law when it made the decision to deny Ms. K.'s application. The decision of the Permanent Fund Dividend Division to deny the application of P. K. for a 2008 permanent fund dividend is AFFIRMED.

DATED this 19th day of November, 2009.

By: Signed
Mark T. Handley
Administrative Law Judge

threatening illness whose treatment plan, as recommended by the attending physician, requires travel outside the state for treatment at a medical specialty complex; . . .

⁶ AS 43.23.011(a). Certain exceptions to this apply to some military personnel in hostile fire or imminent danger duty during the application period.

⁷ See AS 43.23.011 & 15 AAC 23.103.

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 16th day of December, 2009.

By: Signed
Signature
Mark T. Handley
Name
Administrative Law Judge
Title

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