

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

In the Matter of:)	
)	
C. I. H.)	OAH No. 09-0556-PFD
)	Agency No. 2008-064-7877
<u>2008 Permanent Fund Dividend</u>)	

DECISION AND ORDER

I. Introduction

The Permanent Fund Dividend (PFD) Division did not receive Ms. H.'s 2008 PFD application before the March 31, 2008 deadline. Ms. H. reapplied in October, and her application was denied as untimely. Her informal appeal was denied, and she has asked for a formal hearing by correspondence.

II. Facts

The Division does not have any record of having received a 2008 PFD application from Ms. H. during the application period.¹ Ms. H. stated that she mailed her PFD application in the beginning of March 2008.² She later learned that her application was not on file with the Division so she reapplied in October in order to allow for this appeal process.³ She has mailed prior applications without any problem and was unaware of the need to document that she mailed her application.⁴

III. Discussion

Some of the PFD eligibility requirements are very strict and do not allow the Division much discretion. The regulations do, however, recognize that applications might be lost in the mail. Those regulations allow reapplication, but only if the applicant can provide very specific types of documentation showing that they did file an application on time to begin with.

It is each individual's responsibility to make sure that her application is delivered to the Division by the March 31 deadline.⁵ When a mailed application is not received for some reason, an individual may re-apply after the deadline, but only if she can show that the original

¹ Exhibit 6.
² Exhibit 3, page 2.
³ Exhibit 5, page 2.
⁴ Exhibit 5, page 2.
⁵ Alaska Regulation 15 AAC 23.103(a).

application was on time by submitting a copy of a mailing receipt or a mailing receipt or a receipt from the Division.⁶

Alaska Regulation 15 AAC 23.103(h) sets out the rules governing PFD applicants in Ms. H.'s situation, who believe that they mailed their application before the deadline, but the application has been lost. That regulation provides as follows:

(h) If an individual has timely filed an application but the department does not have that application on file, the individual may submit a request to reapply on or before December 31 of the dividend year. A request to reapply must be accompanied by one of the following forms of evidence that an application was timely filed with the department:

(1) a mailing receipt;

(2) a mailing return receipt documenting delivery to the department, or a receipt issued by the department;

(3) a copy of the computer-generated page containing the permanent fund dividend confirmation number received by the applicant after completing the online filing process;

(4) if the previous application was filed on or after January 1, 2009, a notarized affidavit in which the individual attests that the individual mailed or submitted the previous application timely, or a sponsor applying on behalf of the individual attests that the sponsor mailed or submitted the previous application timely; an individual may request to reapply under this paragraph only once during the individual's lifetime.

It is likely that many people mail their applications without obtaining any receipt or delivery confirmation. Usually, applications are delivered promptly by the Post Office, and there is no problem. When there is a problem, however, it is the applicant's responsibility to have a receipt to show that the application was mailed on time or a return receipt showing it was received by the Division. The Division is not allowed to approve a 2008 PFD application without one of these types of proof. While there is no reason to doubt of Ms. H.'s statement that she did mail her application on time, she does not have a receipt from the post office to document her statement. Without this, her appeal must be denied.

The Division apparently decided that the results in cases like Ms. H.'s could be harsh, and amended the law effective for the 2009 PFD to allow an individual without a mailing receipt or a receipt from the Division to prove that they filed by submitting an affidavit. Unfortunately, this change was not effective soon enough to help Ms. H.

⁶ 15 AAC 23.103(h).

IV. Conclusion

The Division did not receive an application from Ms. H. during the statutory application period. Ms. H. does not have a receipt from the post office showing she mailed her application, and does not have a return receipt showing that the application was received by the Division. Accordingly, she is not eligible to receive the 2008 PFD.

DATED this 5th day of January, 2010.

By: Signed _____
Mark T. Handley
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 3rd day of February, 2010.

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

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