

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

In the Matter of:)
)
C. X.) OAH No. 10-0021-PFD
) Agency No. 2009-063-8884
2007 and 2008 Permanent Fund Dividends)

DECISION

I. INTRODUCTION

C. X. filed for a 2009 Permanent Fund Dividend (PFD). The Permanent Fund Dividend Division (Division) denied her application as untimely. Ms. X. filed for an informal appeal and the Division again denied her application. She has now requested a formal hearing.

A formal hearing was held on February 26, 2010. Ms. X. was present and testified. She also called her mother, K. T., as a witness. Mr. Peter Scott represented the Division by phone. Because there was no applicable exception extending the application deadline, the Division's determination is upheld.

II. FACTS¹

Ms. X. turned 18 in January of 2009.² Because of this, her mother required her to file her own PFD application as an adult. In February of 2009 she left Alaska to care for her sick grandfather. This was expected to be a two week absence, but ended up lasting until April 9, 2009. While out of state, Ms. X. did not have access to the internet so she could not file her application on-line. She did not think of obtaining a paper application because she wasn't expecting to be away as long as she was. Ms. X.'s application was dated April 15, 2009, and was received by the Division on that date.³

III. DISCUSSION

The legislature has provided a three-month long period, ending on March 31 each year, in which to apply for a PFD.⁴ The legislature has allowed exceptions to the filing deadline only for certain military personnel,⁵ certain children when their parents or guardians failed to apply for

¹ The facts stated here are based on the testimony of the witnesses unless otherwise indicated.

² Exhibit 1, page 1.

³ Exhibit 1, page 1.

⁴ Alaska Statute AS 43.23.011(a).

⁵ AS 43.23.011(b)-(c).

them,⁶ and certain disabled individuals.⁷ None of these exceptions apply to Ms. X.'s situation. The exception for children whose parents did not apply for them comes close to being applicable but because she turned 18 prior to March 31, Ms. X. does not qualify for this exception.⁸

“It is an individual’s responsibility to ensure that an application is timely delivered to the department.”⁹ Ms. X. had a very good reason for being out of state during the application period, but difficult personal circumstances do not relieve applicants of their responsibility to ensure that their application is filed on time. The Division does not have the discretion to accept a late application except for one of the three reasons set out above. The division correctly applied the law when it denied Ms. X.’s application.

IV. CONCLUSION

Ms. X.’s application was received by the Division approximately two weeks after the close of the application period. Because there was no applicable exception allowing a late application, the Division’s decision denying Ms. X.’s application is upheld.

DATED this 3rd day of March, 2010.

By: Signed
Jeffrey A. Friedman
Administrative Law Judge

⁶ AS 43.23.055(3).

⁷ AS 43.23.055(8).

⁸ Alaska Regulation 15 AAC 23.133(b)(1).

⁹ 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 30th day of March, 2010.

By: Signed
Signature
Jeffrey A. Friedman
Name
Administrative Law Judge
Title

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