

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

In the Matter of:)
)
O M)
)
2011 Permanent Fund Dividend) OAH No. 12-0278-PFD
) Agency No. 2011-067-7076

DECISION

I. INTRODUCTION

O M applied for a 2011 Permanent Fund Dividend (PFD). His application was denied as untimely by the Permanent Fund Dividend Division (division). Mr. M challenged the division's denial and requested a formal appeal by correspondence. The parties were provided an opportunity to submit additional argument or evidence. The division submitted its Formal Hearing Position Statement. Mr. M submitted evidence of outstanding financial obligations. Because it is undisputed that Mr. M's application was filed late and that he was incarcerated in the qualifying year, 2010, as a result of a felony conviction, he is not eligible to receive the 2011 PFD.

II. FACTS

Mr. M's 2011 Adult Application is signed and dated September 13, 2011.¹ It was received by the division on September 19, 2011 and denied November 25, 2011.² The reason for the denial was that his application was postmarked after the March 31, 2011 filing deadline.³

Mr. M's timely filed his informal appeal of the denial. He did not dispute the late filing but explained that he is incarcerated out of state for a felony conviction and he would like the PFD so he can pay off monies owed to the court system and the State.⁴ Based on this new information, the division again denied his application for being untimely and added two additional grounds for denial: 1) that he was incarcerated in 2010 because of an Alaska felony conviction and 2) that because he was incarcerated out of state he was not allowably absent. The denial is dated June 1, 2012. The Request for Formal Hearing form indicates that the deadline for filing an appeal is July 1, 2012.

¹ Exh. 1 at 1.

² *Id.* at 4; Exh. 2.

³ Exh. 2.

⁴ Exh. 3 at 4; Exh 4 at 5.

The Request was received by the PFD on July 30, 2012 and was postmarked July 24, 2012.⁵ In support of his appeal, Mr. M writes that his criminal judgment says to pay off the restitution owed by applying for the PFD. He also asked for prior years' applications so that he could use those funds to pay off his debt.⁶

III. DISCUSSION

It is an applicant's responsibility to ensure that his or her 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 dividend year.⁸

A mailed application must be postmarked during the application period to be considered timely filed.⁹ The legislature provided very few exceptions to this bright line rule.¹⁰ There is a provision that permits an individual to apply for a PFD after the application deadline if that individual is a member of the armed services and eligible for hostile fire or imminent danger pay.¹¹ There are also provisions that effectively allow certain minors and disabled people to apply after the deadline.¹² During the time in question, Mr. M has not alleged he was entitled to file under one of these exceptions, so the March 31 deadline was absolute for him.

It is undisputed that Mr. M filed well after the March 31, 2011 filing deadline of September, 2011. Because his application is untimely and denied for this reason it is not necessary to address the additional grounds for denial raised by the division.¹³

IV. CONCLUSION

Mr. M's application was submitted after the March 31 deadline and because he has not alleged that he fits within one of the narrow exceptions, he is not eligible for a 2011 PFD. This decision does not affect his status as an Alaska resident or his eligibility for future dividends.

Dated this 5th day of November, 2012.

Signed _____
Rebecca Pauli
Administrative Law Judge

⁵ Exh. 6.

⁶ Exh. 6 at 2.

⁷ 15 AAC 23.103(g).

⁸ AS 43.23.011(a).

⁹ 15 AAC 103(a).

¹⁰ AS 43.23.011(b), (c); AS 43.23.055(3), (7).

¹¹ AS 43.23.011(b), (c).

¹² 15 AAC 23.133.

¹³ It also appears that Mr. M's request for formal appeal may have been untimely.

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 December, 2012.

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

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