

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

In the Matter of)	
)	
B M. C)	OAH No. 16-0253-PFD
<hr style="width:40%; margin-left:0"/>)	Agency No. 2016-067-7812

DECISION & ORDER

I. Introduction

This case is B C’s appeal of the denial of her late filed 2015 permanent fund dividend (PFD) application. The Division determined that Ms. C was not eligible, and it denied the application initially and at the informal appeal level. Ms. C requested a formal hearing. The hearing was held on April 20, 2016.

Ms. C participated for her hearing by phone. PFD Appeals Manager Robert Pearson represented the division and filed a position paper. Administrative Law Judge Mark T. Handley heard the appeal. The record closed at the end of the hearing.

The administrative law judge concludes Ms. C’s 2015 PFD application should be denied. Ms. C admitted that not that she filed her application after the deadline and that a disability did not render her incapable of filing before the deadline.

II. Facts

Ms. C filed a paper 2015 PFD application dated October 8, 2015.¹ Ms. C admitted that this is the only 2015 PFD application she filed. At the hearing, Ms. C explained that she was grieving the recent loss of her brother and mother during the 2015 application period, and “spaced off” filing her own application because she had a lot going on and it somehow slipped her mind, even though she had helped out others family members and friends filing electronically for the before the deadline.²

At the hearing, Ms. C also explained that she does not suffer from any disability that rendered her incapable of filing for a 2015 PFD before the deadline, but thought there might be a rule that would allow her to file a late application once without losing eligibility.³

¹ Exhibit 1.
² Recording of Hearing
³ Recording of Hearing.

III. Discussion

Ms. C did not file a 2015 PFD application before April 1, 2015. Ms. C was very frank and candid about what had happened in her testimony at the hearing. Although in her request for a formal hearing she argued that her mental stress during the application period should meet the requirements for late filing due to a disability, she admitted at the hearing that she could have filed and in fact did file for other people electronically during this period, but simply forgot to file for herself.⁴

For each dividend year, there is a three-month application period that starts on January 1, and ends on March 31 of the relevant year.⁵ A PFD applicant has the responsibility of ensuring that her application is postmarked or received by this deadline.⁶

The laws regarding permanent fund dividends do not allow the Division to create exceptions to the rules regarding filing of applications, even in particularly compelling cases.⁷ The fact that Ms. C was emotionally distressed and suffering from stress during the application period does not prevent her disqualification for missing the deadline. A PFD application must be filed between January 2 and March 31 of the dividend year to be timely.⁸ Only if an individual was disabled, as defined in AS 43.23.095, during the application period of the prior year and, as a result of the disability, did not timely file an application, may that individual may submit an application for the prior year dividend after the deadline.⁹

“‘Disabled’ is defined under AS 43.23.095 as “physically or mentally unable to complete and sign an application due to a serious emotional disturbance, visual, orthopedic, or other health impairment, or developmental disability that is attributable to mental retardation, cerebral palsy, epilepsy, autism or other cause...”¹⁰

In order to meet the requirements for filing a late application due to a disability a PFD applicant must provide:

A certification from a licensed health care provider must be provided with the disabled individual's application. The certification from a licensed health care provider must include (1) confirmation that the individual was disabled on March 31 of the dividend year

⁴ Exhibit 7 & Recording of Hearing.

⁵ Alaska Statute 43.230011(b) & (c).

⁶ Alaska Regulation 15 AAC 23.103(g).

⁷ 15 AAC 05.030(h).

⁸ AS 43.23.011.

⁹ 15 AAC 23.133(d).

¹⁰ AS 43.23.095(2).

for which the individual is applying; and (2) a statement explaining why the disability prevented the applicant from timely filing an application during the application period of the dividend year for which the individual is applying.¹¹

Ms. C did not provide such a certification, and she admitted that she was able to complete and timely file her 2015 PFD application.¹² Ms. C obviously had a lot to contend with during the application period, but these problems were not a disability that rendered her physically or mentally unable to complete and sign a 2015 PFD application. Ms. C was capable of filing a PFD application before the deadline. She helped others file electronic applications during the application period. She filed an application after the deadline.

Ms. C's disappointment is understandable. She is a longtime Alaskan who was eligible for every PFD from 1983 through 2014. This is the first time she has missed the filing deadline, but having reached the finding that Ms. C did not file a timely 2015 PFD application, the only possible result of this case is to conclude that Ms. C's application should be denied.

IV. Conclusion

IT IS HEREBY ORDERED that the application of B C for a 2015 permanent fund dividend be DENIED.

DATED this 20th day of April, 2016.

By: Signed
Mark T. Handley
Administrative Law Judge

¹¹ 15 AAC 23.133(d).

¹² Recording of Hearing.

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 AS 25.27.210 and Alaska Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 24th day of May, 2016.

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

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