

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

In the Matter of	)	
	)	
B U	)	OAH No. 16-0647-PFD
	)	Agency No. 2015-067-6424
<u>2015 Permanent Fund Dividend</u>	)	

**DECISION**

**I. INTRODUCTION**

B U applied for a 2015 Permanent Fund Dividend (PFD). Her application was denied by the Permanent Fund Dividend Division (Division) because the Division found her application was not timely. Ms. U requested an informal appeal, which was denied. Ms. U then requested a formal hearing.

Based on the evidence in the record, the Division’s decision to deny Ms. U’s application is reversed. Ms. U placed her application in a U.S. Postal Service (USPS) drop box located at the downtown Fairbanks post office before 5 p.m. on March 31, 2015. Her application was received in Juneau on April 2, 2015. Inexplicably, the envelope was not postmarked. However, because it would not have been possible for Ms. U’s application to have been received in Juneau if it was mailed on April 1, Ms. U has shown that she mailed her application before the deadline. Accordingly, Ms. U is eligible for a 2015 PFD.

**II. FACTS**

Ms. U filled out a paper 2015 PFD application on March 29, 2015.<sup>1</sup> She went to the Fairbanks PFD office on March 31, 2015 at approximately 4:30 p.m. to file her application with that office. However, there were long lines at the PFD office, so she went to the downtown Fairbanks post office and put her application in the mail drop box. The deadline for pickup from that drop box was 5:00 p.m., and she put her application in the drop box before that deadline.<sup>2</sup>

Ms. U’s application was received by the Juneau PFD office on April 2, 2015. The envelope containing the application contains bar code markings showing that it was processed by the USPS; however, there is no postmark on the envelope.<sup>3</sup> The Division denied Ms. U’s

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<sup>1</sup> Ex. 1, p. 1.

<sup>2</sup> Ms. U’s testimony; Ex. 7.

<sup>3</sup> Ex. 1, p. 3.

application because there was no indication that it was postmarked on or before March 31, 2015.<sup>4</sup> Ms. U requested an informal appeal which was also denied.<sup>5</sup>

Ms. U requested a formal appeal. As part of her appeal documents, she supplied a written statement from a USPS supervisor stating that “[a] letter received on April 2<sup>nd</sup> in Juneau would have to have been mailed prior to March 31.”<sup>6</sup> A Division hearing representative spoke with a different person with the Fairbanks USPS who declined to issue a statement about Ms. U’s mailing because he lacked personal knowledge.<sup>7</sup>

### III. DISCUSSION

An application for a PFD must be either delivered to a PFD office or mailed on or before March 31 of the applicable year.<sup>8</sup> Because Ms. U is the individual challenging the Division’s decision, it is her burden to establish that she mailed her application on or before March 31, 2015.<sup>9</sup>

The PFD regulations specifically provide that:

It is an individual’s responsibility to ensure that an application is timely delivered to the department. A paper application must be timely delivered to the department during normal business hours or delivered to the post office in sufficient time to be postmarked before the end of the application period. The department will deny a paper application postmarked after application period, unless the individual provides the department with an official statement from the United States Postal Service . . . that describes the specific circumstances under which the postal service incorrectly posted the individual’s application or caused a delay in posting.<sup>10</sup>

This case, however, does not present the situation where the paper application is postmarked after March 31. The fact is that Ms. U’s paper application was mailed in an envelope, which was processed by the USPS, but the envelope is not postmarked. Accordingly, neither the regulation, which refers to erroneous postmarks, nor the cases provided by the Division post-hearing, all of which deal with applications postmarked after the March 31 deadline, directly address this case’s factual posture. Instead of Ms. U having to prove USPS error, the lack of a postmark demonstrates clear USPS error on its face. That error, along with

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<sup>4</sup> Ex. 2.

<sup>5</sup> Exs. 3 – 4.

<sup>6</sup> The letter is signed. It contains a name, a phone number, and the designation “204B.” As discussed at hearing, official notice is taken that the designation “204B” refers to a USPS supervisor. *See* Ex. 5, p. 3.

<sup>7</sup> Ex. 7.

<sup>8</sup> AS 43.23.011; 15 AAC 32.103(a).

<sup>9</sup> 15 AAC 05.030(h).

<sup>10</sup> 15 AAC 05.030(g).

the USPS supervisor's written statement, which demonstrates that it would not be possible for an application mailed from Fairbanks to have made it to Juneau by April 2 in one day, meets the intent of the PFD regulation regarding proof of timely mailing. Accordingly, Ms. U has established that she mailed her application on time.

**IV. CONCLUSION**

The Division's decision to deny the application of Ms. U for a 2015 PFD is REVERSED.  
DATED this 1st day of August, 2016.

By: Signed  
Lawrence A. Pederson  
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 25th day of August, 2016.

By: Signed  
Signature  
Lawrence A. Pederson  
Name  
Administrative Law Judge/OAH  
Title

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