

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

In the Matter of)	
)	
U C, SPONSOR OF T D)	OAH No. 17-0721-PFD
)	Agency No. 2016-067-5367
_____)	

DECISION

I. Introduction

U C, the sponsor for T D, inadvertently failed to file T’s application for a permanent fund dividend on time. She later filed an application for T, but it was several months late. The application was denied. Ms. C appealed. Because the law is very strict about filing deadlines, the denial is affirmed.

II. Facts

U C is the mother of 15-year-old T D. T has been a resident of Alaska all her life. Ms. C has consistently applied for Permanent Fund Dividends (PFDs) on behalf of T. The Permanent Fund Dividend Division of the Alaska Department of Revenue has consistently paid dividends to T.¹

Ms. C does not have a computer in her home.² She uses the computer at the Town A Library. On February 6, 2016, she went to the Town A library to file for the 2016 PFD for herself, her son X, and T.³

The Division received Ms. C’s application at a little after 11:00 a.m. Shortly thereafter, it received X’s application. Something, however, went wrong with T’s application. Oddly, T’s name was listed on X’s application as X’s sponsor. T’s application was never received by the Division.⁴

Ms. C is not sure what happened. She remembers that there was a power failure at the Town A Library. She thought she had finished all three applications before the lights went out,

¹ Division Exhibit 4.
² C testimony.
³ C testimony.
⁴ Division Exhibit 3.

but she remembers that she was unable to check on the status of the applications because of the power failure.

During a review of X's application in April, a technician noted that his sister was listed as his sponsor. Upon reviewing X's application history, however, the tech was able to determine that Ms. C was always X's sponsor. The tech was able to correct X's application, and thereby make him eligible, without having to notify Ms. C or require her to correct the application.⁵

When Ms. C noticed in the fall of 2016 that T had not been paid a dividend, she inquired at the PFD office in Anchorage. She received a paper application, and filled that out and filed it on November 18, 2016.⁶ The Division denied the application because it was not timely. That denial was affirmed in an informal conference. Ms. C appealed the informal conference decision, and a hearing was held on July 25, 2017.

III. Discussion

The law that governs PFD applications is strict: “[a]n application for a permanent fund dividend shall be filed during the period that begins January 1 and ends March 31 of that dividend year.”⁷ The law provides for only three exceptions to the time limits for filing an application. First, active duty military personnel who are eligible for hostile fire or imminent danger pay may be excused from filing on time.⁸ Second, persons who are prevented from timely filing by a physical or mental disability may be excused.⁹ Third, a late paper application may be accepted if the United States Post Office provides an official statement that the late filing was due to the postal service's error.¹⁰ Ms. C's case does not fit into any of these three exceptions.

Ms. C argues that her case is different because she has always filed her applications on time. Here, she was careful to file well in advance, but when the power failed—through no fault of hers—she apparently was unable to complete the application. Furthermore, she believes that the error with X's application should have alerted the Division that something was wrong. She expected the Division to let her know about the mistake, so that she could fix it.

⁵ Division Exhibit 6.

⁶ Division Exhibit 1 at 1.

⁷ AS 43.23.011(a).

⁸ AS 43.23.011(b)-(c).

⁹ 15 AAC 23.133(d).

¹⁰ 15 AAC 23.103(g).

The issue here, however, is not whether Ms. C did anything wrong. The law is very clear: “It is an individual’s responsibility to ensure that an application is timely delivered to the department.”¹¹ Thus, it was not the department’s responsibility to notify Ms. C that it had found an error in X’s application. It was Ms. C’s responsibility to follow up and make sure that T’s application was properly filed.

The law requires that “An online application *must* be received electronically by the department by midnight Alaska Daylight Time on the last day of the application period.”¹² Here, because Ms. C did not meet these requirements of the law, T’s application cannot be granted.

The commissioner has denied late-filed application in other cases where a person had difficulty with an online application because of problems with the computer.¹³ This decision must be consistent with the law and with previous decisions. Therefore, Ms. C’s appeal is denied.

Ms. C is reminded, however, that, under 15 AAC 23.133, T can apply for the missing 2016 dividend when she turns 18. Ms. C may assist T in filling out the application.

IV. Conclusion

Because the application for T D’s 2016 PFD was not filed with the Division before midnight on March 31, 2016, the decision denying her dividend application is affirmed.

DATED this 27th of July, 2017.

By: Signed _____
Stephen C. Slotnick
Administrative Law Judge

¹¹ *Id.*

¹² *Id.*

¹³ *See, e.g., In re MU*, OAH No. 13-1562-PFD (Dep’t of Rev. 2014).

Adoption

Under a delegation from the Commissioner of Revenue and under the authority of AS 44.64.060(e)(1), I adopt this decision 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 22nd day of August, 2017.

By: Signed
Name: Stephen C. Slotnick
Title: Administrative Law Judge

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