

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

|                                      |   |                          |
|--------------------------------------|---|--------------------------|
| In the Matter of                     | ) |                          |
|                                      | ) | OAH No. 19-0012-PFD      |
| E O and                              | ) | Agency No. 2018-066-8220 |
| O O and K O (minors)                 | ) | 2018-066-8221            |
|                                      | ) | 2018-066-8222            |
| <u>2018 Permanent Fund Dividends</u> | ) |                          |

**DECISION**

**I. Introduction**

E O applied for the 2018 permanent fund dividend (PFD) for herself and her two minor children O and K. The Permanent Fund Dividend Division (Division) denied their applications because the applications were not mailed until April 2, 2018, which is after the statutory application deadline of March 31, 2018. Ms. O filed an informal appeal with the Division. The Division upheld the denial. Ms. O requested a formal hearing.

Ms. O was sent notice at her address of record that her hearing was scheduled for February 7, 2019. That notice was not returned as undeliverable. Ms. O was telephoned on February 7, 2019 at the scheduled hearing time. There were three telephone numbers that were contained in the record: (907)-229-6853, (907)-229-5183, and (907)-717-7944. Ms. O could not be reached at any of these numbers for the hearing. The Division then relied upon the documents contained in the record.

The Division's denial of the Os' applications is affirmed because the record shows that the applications were mailed after the March 31, 2018 filing deadline. With respect to O and K, they should be able to receive a 2018 PFD if they apply for it on their own when they turn 18.

**II. Facts**

Ms. O and her two children have been receiving a PFD for a number of years, including having received the 2017 PFD.<sup>1</sup> Ms. O applied for the 2018 PFD, both for herself and as the sponsor for her two children. The applications are all dated February 20, 2018.<sup>2</sup> The applications all came in a single envelope. That envelope has a private meter postmark of April 2, 2018. The applications were received by the Division on April 4, 2018.<sup>3</sup>

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<sup>1</sup> Ex. 6.  
<sup>2</sup> Ex. 1, pp. 1 – 6.  
<sup>3</sup> Ex. 1, p. 7.

The Division denied all three application as having been untimely filed.<sup>4</sup> Ms. O requested an informal appeal to challenge the denial of the applications. Her appeal request stated the family relied upon the PFD money and that the applications were turned in on March 31, 2018.<sup>5</sup> The informal appeals for Ms. O and the children were denied.<sup>6</sup>

Ms. O appealed the denial of the informal appeals. Her appeal request states that the applications were dropped off on March 30, 2018 and that N O mailed the applications on the proper date.<sup>7</sup> N O is the name on the return address on the envelope the applications were mailed in.<sup>8</sup>

### III. Discussion

In formal hearings regarding PFDs, the individual challenging the Division’s initial decision “has the burden of proving that the action . . . is incorrect.”<sup>9</sup> This has to be proven by the preponderance of the evidence,<sup>10</sup> meaning that Ms. O must show that the Division’s conclusion that her and her children’s applications was untimely was *probably* incorrect. Because Ms. O did not appear for her hearing, this decision utilizes her written appeal statements.

A PFD application must be received or postmarked on or before March 31 of the application year.<sup>11</sup> There are only two exceptions to the time limits for filing an application. Those are for active duty military personnel who are eligible for hostile fire or imminent danger pay, or for persons who are prevented from timely filing by a physical or mental disability.<sup>12</sup> Ms. O does not claim that she qualifies for either of these exceptions. Instead, her appeal statements provide that N O timely mailed the applications for her. However, the private meter postmark on the application envelope shows that the applications were mailed on April 2, 2018, two days after the deadline of March 31, 2018. Based upon that postmark, Ms. O has failed to show, by a preponderance of the evidence, that the applications were mailed by the March 31, 2018 deadline. As a result, the Division is legally required to deny the applications.

Regardless of the denial of these applications, O and K, as minors, are afforded protection from their sponsor’s failure to timely file for their PFD. They can apply for their 2018 PFD when

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<sup>4</sup> Ex. 2, pp. 1, 3, 7.

<sup>5</sup> Ex. 3.

<sup>6</sup> Ex. 4, pp. 1 – 14.

<sup>7</sup> Ex. 5, pp. 1 – 2.

<sup>8</sup> Ex. 1, p. 7.

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

<sup>10</sup> 2 AAC 64.290(c).

<sup>11</sup> AS 43.23.011(a); 15 AAC 23.103(a).

<sup>12</sup> AS 43.23.011(b)-(c); 15 AAC 23.133(d).

they turn 18.<sup>13</sup> The Division will not issue prior year dividends automatically; O and K must each reapply for themselves upon turning 18 but before they turn 20.<sup>14</sup>

#### IV. Conclusion

The Division's denial of the Os' applications for the 2018 PFD is AFFIRMED. This decision does not affect the ability of any member of the O family to qualify in 2019 or future years. It also does not affect O O's and K O's right to return to the PFD Division and be paid the 2018 dividend when they each turn 18.

DATED this 15th day of April, 2019.

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

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]

### 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 9 day of May, 2019.

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

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]

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<sup>13</sup> 15 AAC 23.133(b).

<sup>14</sup> 15 AAC 23.133(c).