

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

In the Matter of)	
)	
E U, J U (minor) & Z K (minor))	OAH No. 19-0111-PFD
)	Agency Nos. 2018-066-8485/86/87
_____)	

DECISION

I. Introduction

E U appeals the denial of her and her children’s 2018 Permanent Fund Dividends (PFD) applications. The Permanent Fund Dividend Division (Division) contends the applications were submitted late; Ms. U disagrees. Because the 2018 PFD applications were not timely filed, the Division’s denials of the PFD are affirmed.

II. Facts

A. Procedural background

Ms. U applied for the 2018 PFD on behalf of her and her children, J (then 14) and Z (then 10).¹ The Division denied all three applications during the summer of 2018 on the basis that they were postmarked after the application period had closed.² Ms. U submitted Requests for Informal Appeal of the three applications.³ These were likewise denied, based on findings that the three applications had been received on April 11, 2018 in an envelope postmarked April 4, 2018.⁴ On January 17, 2019 Ms. U requested a formal hearing on her and her children’s behalf, disputing none of the informal appeal decision facts.⁵

This matter was originally scheduled for March 11, 2019, but Ms. U did not appear and was unreachable by phone. She was provided written notice the matter would go forward on April 2, 2019. On April 2, 2019, the matter commenced. Ms. U, on behalf of her and her children, appeared telephonically. Peter Scott, Permanent Fund Dividend Specialist, appeared on behalf of the Division telephonically. The Division’s position statement and Exhibit 1-6 were admitted without objection.

¹ Exhibit 1.
² Exhibit 2.
³ Exhibit 3.
⁴ Exhibit 4.
⁵ Exhibit 5.

B. Material Facts

Ms. U mailed the family's 2018 PFD applications through the City A post office. The applications were signed March 31, 2018.⁶ The postmark on the envelope is a round City A cancellation dated April 4, 2018.⁷ The Division stamped the envelope containing the U family's 2018 PFD applications as received on April 11, 2019.⁸ The Division denied the U family's PFD as untimely on July 27, 2018.⁹

At the hearing, Ms. U maintained she mailed the applications sometime around the end of March 2018 but could not recall the exact date.¹⁰ She said the delays were caused by the post office. To determine if there was an issue with the post office, Mr. Scott had contacted the local post office. Melissa Medeiros of the US Postal Service responded in writing that she had confirmed with Postmaster S B that the

facility was open for normal business on Saturday March 31, 2018 and in the week prior to the PFD deadline. Our records also indicate that the City A Post Office had financial transactions on March 31, 2018, which indicates the Post Office was open for business that day.¹¹

Ms. Medeiros's letter also set forth the post office's practice of receiving and marking mail at the post office. She explained:

If it was placed in the box prior to 4:45 PM, the final collection time, or presented at the window prior to 5 PM when the window closes, it should have received the postmark upon the day received. If it was placed in the collection box after 4:45 PM, it would receive the postmark for the next business day, which was April 2, 2018. As this letter has a postmark of April 4, 2018 it would indicate that would have been the mailing date.¹²

III. Discussion

The legislature has adopted a strict deadline for PFD applications. The period for

⁶ Exhibit 1.

⁷ Exhibit 1 p. 10. The pixelated copy submitted as an exhibit is difficult to read, but in Mr. Scott's presentation of the Division's case, he stated he viewed the original and it read April 4, 2018. Further, Ms. U did not dispute the postmark date of April 4, 2018 at the hearing or in her formal appeal when she was asked to indicate which of the facts from the informal appeal decision facts were true. She wrote that the date was true.

⁸ *Id.*

⁹ Exhibit 2.

¹⁰ Ms. U testimony.

¹¹ Exhibit 6.

¹² *Id.*

applying ends on March 31 of the dividend year.¹³ An application must be received by the Division or postmarked during the application period to be considered timely.¹⁴ The applicant is responsible for ensuring that the application is timely delivered to the Division.¹⁵

Ms. U appeals the denial of her and her children's 2018 dividends. She has the burden of proving, by preponderance of the evidence, the action by the Division is incorrect.¹⁶

Ms. U and her children's 2018 PFD applications were postmarked April 4, 2018. While she maintains she mailed it sometime at the end of March 2018, she was unable to provide any information or description of the circumstances surrounding the actual date she filed the applications to persuade it was timely filed. More persuasive was the envelope postmarked April 4, 2018, and a letter from the postmaster that there were no postal issues with the post office that would explain a delay in the postmark.

As Ms. U was unable to provide evidence to support her claim, neither Ms. U nor her children are eligible for the 2018 PFD at this time. However, the children are still eligible to receive their 2018 PFD once they reach 18. Minors are afforded protection from their sponsor's failure to timely file for their PFD.¹⁷ Since J and Z are minors, and not able to file on their own behalf at this time, each can apply for their 2018 PFD when he or she turns 18.¹⁸ The Division will not issue prior year dividends automatically, so J and Z each must reapply for themselves upon turning 18 but before turning 20.¹⁹

IV. Conclusion

Ms. U did not timely file her and her children's 2018 PFD applications. The Division's denial is affirmed.

Dated: April 15, 2019

Signed _____
Hanna Sebold
Administrative Law Judge

¹³ AS 43.23.011(a).

¹⁴ 15 AAC 23.103(a). There are exceptions for military personnel eligible for hostile fire or imminent danger pay, and for people with certain disabilities. Ms. U made no assertions that either she or her children would qualify for any exceptions.

¹⁵ 15 AAC 23.103(g).

¹⁶ 15 AAC 05.030(h).

¹⁷ 15 AAC 23.133.

¹⁸ 15 AAC 23.133(b).

¹⁹ 15 AAC 23.133(c).

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 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 13th day of May, 2019.

By: Signed
Signature
Hanna Sebold
Name
Administrative Law Judge
Title

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