

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

In the Matter of)
)
ALASKA MOUNTAIN RESCUE GROUP) OAH No. 21-1744-PFC
_____)

DECISION

I. Introduction

Alaska Mountain Rescue Group (Alaska Mountain) is an Alaskan non-profit that applied to receive charitable contributions from the Alaska Permanent Fund Dividend’s (PFD) “Pick.Click.Give” program. Its application was denied. Alaska Mountain appealed on May 24, 2021. The Division referred the case to this office for hearing on July 6, 2021.¹

Alaska Mountain’s appeal was heard in a telephonic hearing on July 29, 2021. Kent Kallander, Alaska Mountain’s treasurer represented Alaska Mountain and testified on its behalf. Peter Scott, a PFD Specialist employed by the Division, represented the Division.

The undisputed evidence presented at hearing established that Alaska Mountain did not submit its application fee, which was required as part of the application process, by the application deadline of March 31, 2021. As a result, Alaska Mountain’s application was properly denied. The Division’s denial is therefore AFFIRMED.

II. Facts²

The relevant facts in this case are undisputed. Alaska Mountain is a non-profit that provides essential and critical search and rescue services. It is funded primarily by charitable contributions, including those provided by the PFD Pick.Click.Give program.

The Pick.Click.Give program has a list of eligible educational organizations, community foundations, and charitable organizations, and it allows Alaska residents to donate all or a portion of their permanent fund dividend payments as charitable contributions to any organization on the list.³ The application deadline for inclusion on the list of eligible

¹ Pursuant to 7 AAC 23.340(c), this case was to have been heard and “a proposed decision [will] be ready for final action by the department within 45 days after receiving the appeal.” That 45-day deadline was July 8, 2021.

² These facts are proven by a preponderance of the evidence. Unless otherwise provided, they are based upon Mr. Kallander’s hearing testimony.

³ AS 43.23.130.

organizations is March 31 of the qualifying year.⁴ The qualifying year for the 2022 PFD was 2021.⁵

Alaska Mountain has been approved in the past to receive charitable contributions through the PFD’s Pick.Click.Give program. It reapplied for inclusion in the Pick.Click.Give program for the 2022 PFD year. Its application was filed with the Division on February 3, 2021.⁶ The \$250 application fee was not included with the application. On February 3, 2021, the Pick.Click.Give program emailed Mr. Kallander, Alaska Mountain’s treasurer notifying him that its application was received and that “[w]e must receive [the] nonrefundable \$250 fee before determining eligibility.” That same email informed Alaska Mountain that the deadline was March 31, 2021. That email was copied to Alaska Mountain’s president.⁷

Alaska Mountain did not submit its \$250 application fee. Its application was denied on May 17, 2021 because it did not include the \$250 application fee.⁸ Alaska Mountain requested an appeal of that denial on May 24, 2021. In its written appeal request, Alaska Mountain admitted that the filing fee had not been paid due to an oversight.⁹ Alaska Mountain attributed that oversight due to its transition to a new treasurer and computer issues which interfered with access to its emails.

III. Discussion

Alaska Statute 43.23.130 instructs the Department of Revenue to allow applicants who file electronically for the Alaska permanent fund dividend to direct that money be deducted from their dividend payment and contributed to one or more of the educational organizations, community foundations or charitable organizations that appear on the contribution list.¹⁰ The Department of Revenue has named this program Pick.Click.Give.¹¹

Under AS 43.23.130, the Department of Revenue may include a charitable organization on the Pick.Click.Give contribution list *only if* a series of requirements are satisfied. The first requirement is that

⁴ AS 43.23.130(d)(1).

⁵ AS 43.23.095(6).

⁶ Ex. 1, pp. 1 – 4; Ex. 4, pp. 6 – 9.

⁷ Ex. 4, pp. 5 – 6.

⁸ Ex. 2.

⁹ Ex. 3.

¹⁰ AS 43.23.130(a).

¹¹ See Pick.Click.Give. (pickclickgive.org)

the organization must file an application for inclusion on the list before March 31 of the qualifying year.¹² Another is that the applicant organization must pay a \$250 application fee.¹³ Division regulation, 15 AAC 23.263(e), states that the application “must be accompanied by a nonrefundable fee of \$250.”¹⁴ The regulations further provide that charitable organization has filed an application to participate in Pick.Click.Give “only if that application is complete and timely.”¹⁵ The application is “timely” if it is postmarked on or before March 31 of the qualifying year.¹⁶ The applicable regulation, 15 AAC 23.310(c)(2), provides that an application is “complete if, when considered along with documents submitted with an application that established eligibility for a prior dividend year, it contains all the information required for the department to make the determinations required by AS 43.23.130(d)(2)-(9), including copies of documents necessary to determine eligibility.”¹⁷

The Division maintains that in order for an application to be timely and complete, both the application and the filing fee must be submitted by the application deadline of March 31 of the qualifying year. The issue in this case is whether an applicant must file its application fee in order for the application to be deemed “complete.” Alaska Mountain points out the regulatory definition of “completeness” contained in 15 AAC 23.310(c)(2) does not include a provision that an application is not “complete” until the fee is submitted. The Division maintains that the requirement for the timely filing of the application fee is contained within 15 AAC 23.310(c)(2). A close reading of that regulation shows that it does not address, either explicitly or implicitly, the application fee. It states that the application is complete, when it includes “copies of documents necessary to determine eligibility.”¹⁸ The Division reads “copies of documents necessary to determine eligibility” to include the application fee. However, an application fee is not a “copy of a document.” Consequently, 15 AAC 23.310(c)(2) does not apply to this case.

If Alaska Mountain’s argument is followed to its logical extreme, the result would be that, even though an application fee is required, there is no deadline for submitting it.

Regulation 15 AAC 23.263(e), however, answers the question:

¹² AS 43.23.130(d).
¹³ AS 43.23.130(f).
¹⁴ 15 AAC 23.263(e).
¹⁵ 15 AAC 23.310(c).
¹⁶ 15 AAC 23.310(c)(1).
¹⁷ 15 AAC 23.310(c)(2).
¹⁸ 15 AAC 23.310(c)(2).

Each application for inclusion on the list of beneficiary organizations to be included within the online permanent fund dividend application **must be accompanied** by a nonrefundable fee of \$250.¹⁹

This regulation mandates that the application must be accompanied by the fee. This means that the application fee is an integral part of the application. Consequently, for an application to be both timely and complete, it must contain the completed application form, the necessary documents to satisfy the requirements of 15 AAC 23.310, **and** the application fee required by 15 AAC 23.263(e), by March 31 of the qualifying year. To hold otherwise would negate the regulatory requirement that the application fee must accompany the application.

It is undisputed that Alaska Mountain's application fee was not provided with its application, nor was it submitted by the deadline of March 31, 2021. This means that the application must be denied. Alaska Mountain argues that extenuating circumstances should allow a relaxation of the deadline. However, those circumstances involve the organization's transition to a new treasurer, and computer difficulties. None of these circumstances involve any actions or representations made by the Division. Indeed, the same day that Alaska Mountain filed its application, emails were sent to both its treasurer and president notifying them that the application fee was not provided and that the deadline for submitting it was March 31, 2021. These facts do not provide a basis for relaxing the regulatory requirement. Alaska Mountain also argued, in an email submitted after the close of the hearing, that there should have been multiple attempts to contact it about its omission of the application fee prior to the denial of its application. While that degree of outreach might have rectified the omission in Alaska Mountain's application, it is not required by the PFD's statutes and regulations.

IV. Conclusion

The denial of Alaska Mountain's application to be included in the Pick.Click.Give program for the 2022 PFD year is **AFFIRMED**.

Dated: August 3, 2021.

Signed _____
Lawrence A. Pederson
Administrative Law Judge

¹⁹ 15 AAC 23.263(d) (emphasis supplied).

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 30th day of August, 2021.

By: Signed
Lucinda Mahoney
Commissioner, Department of Revenue

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