

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

In the Matter of

M. K.

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OAH No. 23-0228-PFD

DECISION

I. INTRODUCTION

The Permanent Fund Dividend Division (“Division”) denied M. K.’s application for a 2021 Permanent Fund Dividend (“PFD”) because her application was untimely. The PFD deadline is a strict one with few, very limited exceptions. Ms. K. offered no evidence that she timely mailed her application or that she could qualify for an exception. Accordingly, the Division’s denial of her application is affirmed.

II. BACKGROUND

A PFD application must be received or postmarked by March 31 of the dividend year.¹ The only exceptions to this deadline are for active military servicemembers under specific circumstances.² Minors reaching the age of majority and disabled people may also apply for prior year dividends under limited circumstances.³

M. K. filled out and signed a 2022 PFD application on March 28, 2022.⁴ Ms. K. was dealing with serious health issues at the time including medication that caused her to sleep much of the day.⁵ Ms. K. recalls thinking that she needed to get her PFD application mailed, but not taking it to the mailbox outside her landlord’s office for several days.⁶ Ms. K. could not recall the specific date or day of the week.⁷ The mailbox where Ms. K. mailed her application is a postal service box where she observed postal workers picking up the mail daily.⁸

¹ AS 43.23.011(a); 15 AAC 23.103(a).

² AS 43.23.011(b), (c).

³ 15 AAC 23.133.

⁴ Ex. 1 at 4; K. testimony.

⁵ K. testimony.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

Ms. K.’s application was postmarked April 1, 2022 and received by the PFD Division on April 4, 2022.⁹

The Division denied Ms. K.’s application as untimely.¹⁰ Ms. K. appealed, stating that she mailed her application on March 28 and that she was hospitalized in early April.¹¹ The Division issued an informal appeal decision affirming its denial of Ms. K.’s application.¹² Ms. K. requested a formal appeal hearing, this time stating that she was hospitalized in late March.¹³ A Division representative interviewed Ms. K. by phone and she clarified that she was hospitalized starting April 5, 2022, as confirmed by a text she sent her sister that day.¹⁴

A telephonic hearing was conducted on May 8, 2023. Ms. K. testified. Her sister, M.R, also attended the hearing, but did not testify. The Division was represented by Peter Scott.

III. DISCUSSION

As the appellant, Ms. K. has the burden of proving that she is eligible for a 2022 PFD. Thus it was up to Ms. K. to show that her application was timely or that she qualified for one of the very limited exceptions.

Ms. K. did not show that her application was timely. To be timely, an application must be received or postmarked by March 31, 2022.¹⁵ Ms. K.’s application was postmarked April 1, 2022. As set forth in regulation, “[i]t is an individual’s responsibility to ensure that an application is timely delivered to the department . . . or delivered to the post office in sufficient time to be postmarked before the end of the application period.”¹⁶ This is a strict deadline. When an application is postmarked after the deadline, the Division will deny the application unless the applicant provides “an official statement from the United States Postal Service or a foreign postal service that describes the specific circumstances under which the postal service incorrectly posted the individual’s application or caused a delay in posting.”¹⁷ Ms. K. did not submit any such statement from the Postal Service.

⁹ Ex. 6.

¹⁰ Ex. 2.

¹¹ Ex. 3 at 3-6.

¹² Ex. 4.

¹³ Ex. 5 at 2.

¹⁴ Ex. 7.

¹⁵ AS 43.23.011(a); 15 AAC 23.103(a).

¹⁶ 15 AAC 23.103(g).

¹⁷ *Id.*

Nor did Ms. K. show she qualified for an exception to the application deadline. There are limited exceptions for active duty military servicemembers.¹⁸ Ms. K. is not in the military.¹⁹ Minors and disabled persons may also apply for prior year PFDs.²⁰ Ms. K. is not a minor.²¹ And despite her health issues and later hospitalization, Ms. K. has not provided evidence to show she was “disabled” for PFD eligibility purposes. By statute, “disabled” is defined as someone who is “physically or mentally unable to complete and sign an application due to a serious emotional disturbance, visual, orthopedic, or other health impairment, or developmental disability that is attributable to intellectual disability, cerebral palsy, epilepsy, autism, or other cause.”²² The critical language here is “unable to complete and sign an application.” Ms. K. described being on medication in March 2022 and later hospitalized for serious medical issues in April 2022.²³ But while these health issues impacted Ms. K.’s life, they did not prevent her from completing or signing her application, as demonstrated by the application itself, signed and dated March 28. Thus even if her medical issues could otherwise constitute a disability under the statutory definition, Ms. K. has not and cannot show that a disability rendered her unable to complete and sign her application.

There is no question Ms. K. was going through a difficult period in late March and early April of 2022. But the Division simply does not have discretion to accept a late PFD application, even if postmarked only one day late and even if a person had compelling personal reasons for being later. PFD statutes and regulations set a strict application deadline with very few, very limited exceptions. Ms. K. did not demonstrate that any of those exceptions apply to her.

IV. CONCLUSION

Ms. K. mailed her application such that it was postmarked after the March 31, 2022 deadline and does not qualify for any exception to the deadline. Because her application was untimely, the Division correctly denied her 2022 PFD. The Division’s decision is affirmed.

DATED: May 15, 2023.

¹⁸ AS 43.23.011(b), (c).

¹⁹ Ex. 1 at 1.

²⁰ 15 AAC 23.133.

²¹ Ex. 1 at 1.

²² AS 43.23.295(2).

²³ Ex. 7; K. testimony.

Signed

Rebecca Kruse
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 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 8th day of June, 2023.

By: Signed
Rebecca Kruse
Administrative Law Judge

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