

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

In the Matter of	)	
	)	
D. J. AND MINOR CHILDREN L. J., P. X.,	)	OAH No. 23-0096-PFD
AND K. X.	)	
_____	)	

DECISION

I. Introduction

D. J. and her minor children applied for 2022 Permanent Fund Dividends (“PFD”). The Department of Revenue Permanent Fund Dividend Division (“Division”) did not receive the J.s’ applications until two weeks after the deadline and therefore denied them as untimely. The J.s are responsible for ensuring their applications are timely and for providing evidence of timeliness on appeal. The J.s did not meet that burden and thus the Division’s decisions are affirmed.

II. Facts

PFD applications are due by March 31 annually. For the 2022 PFD, J.D. J. submitted mailed paper application for herself and her minor children J.L. J., P. X., and K. X.¹ Ms. J. signed and dated these applications March 4, 2022, but the envelope the Division received them in is postmarked April 15, 2022.² The Division received the applications April 19, 2022 and denied them as untimely.³ Ms. J. requested an informal appeal, stating that she was not able to file online, referencing “late mail,” and highlighting her financial need.⁴ The Division explained the limited exceptions for filing a late application — disability, military service, or proof of postal error — and gave her an opportunity to provide supporting documentation for either exception.⁵ Ms. J. returned a disability application, but did not complete a Certification of Disability form from a licensed health care provider.⁶ Instead, Ms. J. submitted what purports to be a doctor’s note — albeit not on a doctor’s letterhead or with any identifying information about the doctor or his workplace — stating that Ms. J. may return to work but should avoid lifting

¹ Ex. 1.
² Ex. 1 at 14.
³ Ex. 1 at 14; Ex. 2.
⁴ Ex. 3.
⁵ Ex. 4.
⁶ Ex. 5.

more than 20 pounds between October 17, 2022 and November 18, 2022. The Division found this insufficient proof to support a disability exception and therefore denied Ms. J.’s and her children’s PFDs again as untimely.⁷

Ms. J. then requested this formal appeal on written correspondence.⁸ For facts supporting her appeal, Ms. J. listed: “filed online”; “paper filed”; “postal error”; “moved residence”; “account closed”; “medical apt.”; “appeals all” “tried to file multiple times”; and “out door unstable/postal error.”⁹ Under issues, Ms. J. wrote questions about other children who were not part of her application packet.¹⁰ Ms. J. did not explain these statements or provide any other information, nor did she take advantage of opportunities to submit information and arguments to OAH. The Division filed a position statement with exhibits.

III. Discussion

As the appellant, Ms. J. has the burden of proving that she is eligible for a 2022 PFD. Thus it was up to Ms. J. to show the applications for herself and her children were timely or that Ms. J. qualifies for one of the very limited exceptions.

Ms. J. did not show her application was timely. To be timely, an application must be received or postmarked by March 31, 2022.¹¹ The applications here were postmarked April 15, 2022, two weeks after the deadline. 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.”¹² 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 Services or a foreign postal service that describes the specific circumstances under which the postal service incorrectly posted the individual’s application or cause a delay in posting.”¹³ Ms. J. did not submit any such statement from the Postal Service, nor provide any evidence that she took the applications to a post office in sufficient time to be postmarked by March 31 or that there was

⁷ Ex. 6.

⁸ Ex. 7.

⁹ Ex. 7 at 3.

¹⁰ *Id.*

¹¹ AS 43.23.011(a); 15 AAC 23.103(a).

¹² 15 AAC 23.103(g).

¹³ *Id.*

any error or delay by the Postal Service. This lack of evidence fails to meet the burden of showing the applications were timely.

Nor did Ms. J. show she could qualify for an exception to the application deadline. Ms. J. is not an active duty military servicemember so she could not qualify for that exception.¹⁴ A person who was unable to timely file an application because of a disability may also apply for a prior year.¹⁵ This exception requires certification from a licensed health care provider that the applicant was disabled on March 31 of the dividend year and that the disability prevented the applicant from timely filing.¹⁶ The doctor's note Ms. J. submitted does not meet these requirements. Even accepting it as authentic, all the note states is that Ms. J. should not lift more than 20 pounds between October 17, 2022 and November 18, 2022. This is not evidence of disability on March 31, 2022 nor evidence of a disability that prevent Ms. J. from taking the applications — which would have weighed far less than 20 pounds — to the post office by March 31, 2022. Thus there is no evidence here to support a late filing based on disability. The PFD statutes and regulations do not give the Division discretion to waive the timeliness requirement or to consider other bases for an exception.

As the Division noted in its position statement, the J. children will be eligible to file for 2022 PFDs when they turn 18.¹⁷

IV. Conclusion

As indicated by the postmark, Ms. J. mailed the applications for herself and her children after the March 31, 2022 deadline. She offered no evidence that she timely mailed the applications or that she could qualify for any exception to the application deadline. Because the applications were untimely, the Division correctly denied their 2022 PFD. The Division's decisions are affirmed.

DATED: March 29, 2023.

SIGNED
Rebecca Kruse
Administrative Law Judge

¹⁴ AS 43.23.011(b) (providing an exception for active-duty military under specific circumstances).

¹⁵ 15 AAC 23.133(d).

¹⁶ *Id.*

¹⁷ 15 AAC 23.133(b)

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 25th day of April, 2023.

By: SIGNED

Signature

Rebecca Kruse

Name

Administrative Law Judge

Title

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