

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

In the Matter of	)	
	)	
B. L. AND T. L., A MINOR	)	OAH No. 23-0639-PFD
	)	
_____	)	

DECISION

I. INTRODUCTION

The Permanent Fund Dividend Division (“Division”) denied 2022 Permanent Fund Dividend (“PFD”) applications for B. L. and her son, T. L., because the applications were untimely. The PFD deadline is a strict one with few, very limited exceptions. The record includes no evidence Ms. L. timely submitted the applications or that she could qualify for an exception. Accordingly, the Division’s denial of her application is affirmed.

As to T., this decision affects only his eligibility for a 2022 PFD at this time. He can apply for a past year’s PFD when he turns 18.

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

The Division received 2022 PFD applications for B. L. and her minor son, T. L., by mail on November 14, 2022.⁴ The envelope had no postmark.⁵ But the applications themselves included Ms. L.’s signature with a date of November 3, 2022.⁶ Below the signature date, there is a handwritten notation:

02 18 2022
1st dropped off @ Tribal Office then forgot to mail out⁷

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.

⁵ Ex. 1 at 8.

⁶ Ex. 1 at 4, 7.

⁷ Id. The “then forgot to mail out” appears on the application for T., but not B.

Also on November 3, 2022, J. T. from Village Corporation A. emailed the Division, stating that Ms. L.:

did in fact bring [the applications] into my office to help her complete her applications and that time 2/18/22 when she asked me to help her process her application, my fax/copier/scanner machine was not working due to too much power outage, then it was filed and forgot to process it until after the deadline. So at this time would it be ok to go ahead and process them for the L. family?⁸

The Division denied the L.s' applications as untimely.⁹ Ms. L. requested informal appeals, but included no statement of challenged facts or basis for appeal.¹⁰ The Division nonetheless proceeded with informal appeals based on the notation on the applications that they had been dropped off at a tribal office.¹¹ The Division advised Ms. L. that she would need to provide documentation of certain military service, disability, or postal service error to be eligible for a PFD.¹² Ms. L. returned a certificate of disability, but failed to include the required certification from a health care provider.¹³ The Division issued informal appeal decisions affirming its denial of the L.s' applications.¹⁴

Ms. L. requested a formal appeal hearing.¹⁵ The hearing request form asks appellants to list whether any facts in the informal appeal are untrue and explain why they are eligible. For facts, Ms. L. marked all as true and wrote "none" under other relevant facts the Division should consider.¹⁶ For an explanation of why she believes they are eligible for PFDs, Ms. L. wrote, "I understand the Law and State based on what was going on with 2022 Appl[ica]tions."¹⁷

A hearing was noticed for November 16, 2023. Ms. L. was called several times at her phone number for record, but the phone was not in service at the time and Ms. L. did not contact OAH to provide another number or to participate in the hearing. As of the date of this decision,

⁸ Ex. 9 at 1.

⁹ Ex. 2.

¹⁰ Ex. 3.

¹¹ Position Statement at 1.

¹² Ex. 4.

¹³ Ex. 5.

¹⁴ Ex. 6.

¹⁵ Ex. 8.

¹⁶ Ex. 8 at 2.

¹⁷ *Id.*

ten days have passed without Ms. L. showing good cause for her failure to appear for the hearing. Therefore this decision is issued based on the written record.¹⁸

III. DISCUSSION

As the appellant, Ms. L. has the burden of proving that she and her son are eligible for a 2022 PFD. Thus it was up to Ms. L. to show that their applications were timely or that they qualify for one of the very limited exceptions.

Ms. L. did not show that their applications were timely. To be timely, an application must be received or postmarked by March 31, 2022.¹⁹ Although the applications lack a postmark, they were not signed until November 3, 2022 or received by the Division until November 14, 2022, many months after the deadline. The notations on the applications and email from the village corporation indicate Ms. L. initially brought the applications to the corporation's offices in February. But starting an application before the deadline does not make an application timely. Applications must be timely signed and submitted. The evidence shows Ms. L. did not sign the applications until November 2022 and did not ensure they were submitted to the Division until then. As specified 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."²⁰ Leaving an application with a third party like the village corporation does not ensure it is timely delivered to the Division. Ms. L. was responsible for ensuring the applications were timely mailed to the Division. The evidence shows she did not.

Ms. L. has not shown she or T. could qualify for an exception to the application deadline. There are limited exceptions for active duty military servicemembers, minors in foster care, minors reaching the age of majority, or disabled persons.²¹ Ms. L. did not offer evidence that she or T. fall into any of those categories, let alone the circumstances required for these

¹⁸ 15 AAC 05.030(j) ("If a person requests a hearing and fails to appear at the hearing, the hearing officer may issue a decision without taking evidence from that person, unless the person, within 10 days after the date scheduled for hearing, shows reasonable cause for failure to appear.").

¹⁹ AS 43.23.011(a); 15 AAC 23.103(a).

²⁰ 15 AAC 23.103(g).

²¹ AS 43.23.011(b), (c); 15 AAC 23.133.

exceptions. The incomplete certificate of disability Ms. L. submitted lacked the certification from a health care provider, required by regulation.²²

The PFD statutes and regulations do not give the Division discretion to waive the timeliness requirement or to consider other bases for an exception. Ms. L. has not shown that the applications were timely or that an exception applies. Accordingly, the Division's was correct to deny 2022 PFDs for Ms. L. and her son.

IV. CONCLUSION

Ms. L. did not submit timely applications for 2022 PFD for herself or T. L. and none of the few, narrow exceptions apply. The Division's decision denying their 2022 PFDs is affirmed. This decision does not impact T.'s eligibility to apply for a 2022 PFD after he turns eighteen.²³

Dated: November 27, 2023

Signed

Rebecca Kruse
Administrative Law Judge

²² 15 AAC 23.133(d) ("A certification from a licensed health care provider must be provided with the disabled individual's application. The certification from a licensed health care provider must include (1) confirmation that the individual was disabled on March 31 of the dividend year for which the individual is applying; and (2) a statement explaining why the disability prevented the applicant from timely filing an application during the application period of the dividend year for which the individual is applying.").

²³ 15 AAC 23.133 (b)-(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 22nd day of December, 2023.

By: Signed
Rebecca Kruse
Administrative Law Judge

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