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

In the Matter of	)	
	)	
N.F	)	OAH No. 22-0388-PFD
	)	
	)	

DECISION

I. Introduction

The Permanent Fund Dividend Division ("Division") denied N.F'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. F 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]

N.F submitted a 2021 PFD application with a signature date of March 2, 2022.[4] On the application, Ms. F indicated that she was born in 1961 and that she was not an active military servicemember.[5] The PFD Division received Ms. F's application on April 16, 2021 in an envelope postmarked April 14, 2021.[6]

The Division denied Ms. F's application as untimely.[7] Ms. F appealed, stating only that the Division had misstated her birth year.[8] The Division issued an informal appeal decision affirming its denial of Ms. F's application.[9] Ms. F requested a formal appeal hearing.[10] The

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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.
5 *Id.* at 1.
6 *Id.* at 5.
7 Ex. 2.
8 Ex. 3.
9 Ex. 5.
10 Ex. 6.

hearing request form asks appellants to list facts and explain why they are eligible. For facts, Ms. F wrote "Not sure it may be the weather was bad and we did not get to the mail out in time" and as her explanation for eligibility, Ms. F wrote "none at this time?"[11]

A hearing was noticed for June 2, 2022. Ms. F was called at her phone number of record at the time for hearing, but she did not answer the phone or respond to a voicemail left at that number and she has not since shown cause for her failure to appear for the hearing. Therefore this decision is issued based on the written record.[12]

III. Discussion

As the appellant, Ms. F has the burden of proving that she is eligible for a 2021 PFD. Thus it was up to Ms. F to show that her application was timely or that she qualified for one of the very limited exceptions.

Ms. F did not show that her application was timely. To be timely, an application must be received or postmarked by March 31, 2021.[13] Ms. F's application was not postmarked until April 14, 2021, 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."[14] 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."[15] Ms. F did not submit any such statement from the Postal Service. She did not offer any evidence that she took her application to a post office in sufficient time to be postmarked by March 31 or that there was any error or delay by the Postal Service. This lack of evidence fails to meet the burden of showing her application was timely.

Nor did Ms. F show she could qualified for an exception to the application deadline. There are limited exceptions for active duty military servicemembers, minors, minors reaching

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11 *Id.* at 2.

12 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.").

13 AS 43.23.011(a); 15 AAC 23.103(a).

14 15 AAC 23.103(g).

15 *Id.*

the age of majority, or disabled persons.[16] Ms. F did not offer evidence that she falls into any of those categories, let alone the circumstances required for these exceptions. The PFD statutes and regulations do not give the Division discretion to waive the timeliness requirement or to consider other bases for an exception.

IV. Conclusion

As indicated by the postmark, Ms. F mailed her application after the March 31, 2021 deadline. She offered no evidence that she timely mailed the application or that she could qualify for any exception to the application deadline. Because her application was untimely, the Division correctly denied her 2021 PFD. The Division's decision is affirmed.

This decision does not affect Ms. F's ability to qualify is 2022 or subsequent years.

Dated: June 14, 2022

Signed
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Rebecca Kruse
Administrative Law Judge

[16] AS 43.23.011(b), (c); 15 AAC 23.133.

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 11th day of July, 2022.

By: *Signed*
_____
Rebecca D. Kruse
Administrative Law Judge

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