

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

In the Matter of	)	
	)	
K. K. AND U.O.	)	OAH No. 22-0438-PFD
	)	
_____	)	

DECISION

I. Introduction

The Permanent Fund Dividend Division (“Division”) denied K. K.’s and U.O.’s applications for a 2021 Permanent Fund Dividend (“PFD”) because their applications were untimely. The PFD deadline is a strict one with few, very limited exceptions. Ms. K. and Mr. O. offered no evidence that they timely mailed their applications or that they could qualify for an exception. Accordingly, the Division’s denial of their applications 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

K. K. and U.O. both submitted 2021 PFD application with a signature date of July 9, 2021.⁴ Both marked on their applications that they were not active military servicemembers.⁵ The PFD Division received these applications on July 19, 2021 in an envelope postmarked July 14, 2021.⁶

The Division denied Ms. K.’s and Mr. O.’s applications as untimely.⁷ Ms. K. and Mr. O. appealed. On their appeal forms, both marked that there were no incorrect statements in the denial decisions and stated that they “[j]ust filled [sic] the application late.”⁸ The Division

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, 8.

⁵ *Id.* at 1, 5.

⁶ *Id.* at 9.

⁷ Ex. 2.

⁸ Ex. 3 at 2, 4.

issued informal appeal decisions affirming the denials.⁹ Ms. K. and Mr. O. requested a formal appeal, to be heard on written correspondence.¹⁰

The hearing request form asks appellants to list facts and explain why they are eligible. Mr. O. wrote that “This year was a busy day. January, I usually go pick up papers but I was to [sic] busy working on my snowmachine” and that he was “[o]ut hunting and fishing.”¹¹ Mr. O. also noted that he had submitted the fee for an appeal, remarking “ain’t I just supposed to just get my PFD.”¹² On her appeal, Ms. K. wrote that she was filling out the form by herself for the first time, that she “ha[s] too many things to do,” that she “forgot to remind myself to pick up” the form, and that “I have an elderly mother that I have to go be with 24/7.”¹³ Ms. K. also noted that because she paid the appeal fee, “ain’t I supposed to just receive my PFD.”¹⁴

The parties were given an opportunity to submit additional documents and explanation by June 15, 2022 and a written response by June 29, 2022. The Division provided a position statement on June 15. Ms. K. and Mr. O. did not submit anything.

III. Discussion

As the appellants, Ms. K. and Mr. O. have the burden of proving they are eligible for a 2021 PFD. Thus it was up to Ms. K. and Mr. O. to show that their application were timely or that they qualified for one of the very limited exceptions.

To be timely, an application must be received or postmarked by March 31, 2021.¹⁵ Ms. K.’s and Mr. O.’s application was not postmarked until July 14, 2021, more than three months 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.”¹⁶ 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

⁹ Ex. 4.

¹⁰ Ex. 5 at 1, 5.

¹¹ *Id.* at 2, 3.

¹² *Id.*

¹³ *Id.* at 6.

¹⁴ *Id.*

¹⁵ AS 43.23.011(a); 15 AAC 23.103(a).

¹⁶ 15 AAC 23.103(g).

posted the individual's application or cause a delay in posting."¹⁷ Ms. K. and Mr. O. did not submit any such statement from the Postal Service. Nor did not they offer any evidence that they timely mailed their applications or evidence of error or delay by the Postal Service.

Ms. K. and Mr. O. also failed to show that they qualify for an exception to the application deadline. Both indicated that they were busy and forgot to file on time. The Division does not have discretion to grant exceptions to applicants who are busy. The only limited exceptions are for active duty military servicemembers, minors, minors reaching the age of majority, or disabled persons.¹⁸ Ms. K. and Mr. O. did not offer evidence that either of them fall into any of those categories, let alone the circumstances required for these exceptions. Nor does paying the fee for an appeal entitle an applicant to a PFD.

The PFD is not an automatic benefit. Residents must apply each years. And they must apply by the deadline. Ms. K. and Mr. O. failed to do so and do not qualify for an exception for late filing.

IV. Conclusion

Ms. K. and Mr. O. mailed their PFD applications after the March 31, 2021 deadline and did not qualify for any exception to the deadline. Because their applications were untimely, the Division correctly denied their 2021 PFDs. The Division's decision is affirmed. This decision does not affect Ms. K.'s and Mr. O.'s ability to qualify in 2022 or subsequent years.

Dated: June 30, 2022

SIGNED
Rebecca Kruse
Administrative Law Judge

¹⁷ *Id.*

¹⁸ 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 27th day of July, 2022.

By: SIGNED

Signature

Rebecca Kruse

Name

Administrative Law Judge

Title

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