

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

IN THE MATTER OF  
S.M.

OAH 07-309-PFD

2006 Permanent Fund Dividend

**DECISION & ORDER**

**I. Introduction**

S.M. applied for a 2006 permanent fund dividend (PFD). The Permanent Fund Dividend Division (Division) determined that Ms. M. was not eligible, and it denied the application initially and at the informal appeal level. Ms. M. requested a formal hearing by correspondence.

Administrative Law Judge Mark T. Handley reviewed the appeal. The administrative law judge finds that the Division correctly denied Ms. M.'s 2006 PFD application.

**II. Facts**

S.M. indicated on her 2006 permanent fund dividend application that she was not present in Alaska when she filed it.<sup>1</sup> The instructions on the applications directed her to answer question # 8 on the application and to file a completed supplemental schedule with her application because she was not present in Alaska when she filed it.<sup>2</sup> Ms. M. answered question # 8 on the application, indicating that she had "moved to Oregon on November 24, 2005."<sup>3</sup>

The Division reviewed Ms. M.'s application and determined she was disqualified from 2005 PFD eligibility because she had moved to Oregon.

In her request for a hearing, Ms. M. admitted that she now lives in Oregon.<sup>4</sup>

Based on the evidence in the record, I conclude that it is more likely than not that Ms. M. moved from Alaska to Oregon, and maintained her primary home in Oregon, before the date she filed her 2006 PFD application.<sup>5</sup>

<sup>1</sup> Ex. 1.

<sup>2</sup> Ex. 1.

<sup>3</sup> Ex. 1

<sup>4</sup> Ex. 6.

<sup>5</sup> Ex. 1 & 6.

### **III. Discussion**

In a PFD hearing, the person who filed the appeal, in this case Ms. M., has the burden of proving by a preponderance of the evidence that the Division's order is incorrect.<sup>6</sup> Ms. M. did not prove by a preponderance of the evidence that the Division's order is incorrect.

In her request for a hearing, Ms. M. argued that she should be eligible for a 2006 PFD because she lived in Alaska from 2003 through most of 2005 and may return to Alaska sometime.

In order to qualify for a permanent fund dividend, a person must be an Alaska resident on the date of application.<sup>7</sup> An individual who has moved from Alaska to another state for an extended absence with no definite return date is no longer an Alaska resident.<sup>8</sup> Furthermore, an individual who maintains her principle home in another state before the date of application is disqualified.<sup>9</sup>

Ms. M. moved to Oregon in 2005 and did not have definite plans to return to Alaska when she applied for a 2006 PFD.<sup>10</sup> Ms. M. admitted that she has no definite return date.<sup>11</sup> Whatever plans she had to return were tentative and indefinite, as her subsequent failure to return has demonstrated.

### **IV. Conclusion**

Having reached the finding that Ms. M. moved from Alaska in 2005 and was therefore not an Alaska resident on the date of her application for a 2006 PFD, her application must be denied.

### **V. Order**

IT IS HEREBY ORDERED that the application of S.M. for a 2006 permanent fund dividend be DENIED.

DATED this 28th day of November, 2007.

By: Mark T. Handley  
Administrative Law Judge

<sup>6</sup> Alaska Regulation 15 A A C 05.030(h).

<sup>7</sup> AS 43.23.005(a)(2)-(3).

<sup>8</sup> AS 01.10.055.

<sup>9</sup> 15 A A C 23.143 (d)(1).

<sup>10</sup> Ex. 6.

<sup>11</sup> Ex. 1 & 6.

## **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 and Order 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 Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 28th day of December, 2007.

By: Mark T. Handley  
Administrative Law Judge

The undersigned certifies that  
this date an exact copy of the  
foregoing was provided to the  
following individuals:

PFD Division  
12/28/08