

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

In the Matter of)	
)	
C. Q. W.)	
)	
<u>2007 Permanent Fund Dividend</u>)	OAH No. 07-0669-PFD
)	Agency No. 07445952-9

DECISION AND ORDER

I. Introduction

C. W.’ application for a 2007 permanent fund dividend (PFD) was denied initially and at the informal appeal level because Ms. W. failed to provide information on forms prescribed by the Division to support her claim of eligibility. Ms. W. requested a formal hearing by correspondence. She declines to provide the completed form. The Division’s denial of Ms. W.’ application for a 2007 PFD is affirmed.

II. Facts

This matter involves an applicant’s refusal to provide information on a form prescribed by the Division. On January 31, 2007, Ms. W. submitted an online application for a 2007 PFD. On her application she disclosed that she had been absent from Alaska for 295 days in 2006 to receive a full-time postsecondary education in Nevada.¹ She claims her parents’ home in Anchorage as her principal place of residence.

On May 16, 2007, the Division issued a letter denying Ms. W.’ 2007 PFD application because she did not provide a completed Education Verification Form, a completed Adult Eligibility Questionnaire, and a completed Supplemental Schedule.² Ms. W. timely requested an informal appeal of the Division’s denial. In support of her informal appeal, Ms. W. explained that she did not receive the request for additional information because she was away at school and her mail was not forwarded because her parents were out of town.³ She asserted that she

¹ Exhibit 1, p. 2. Dates of absence: January 18, 2006 through July 8, 2006 = 171 days; August 22, 2006 through December 23, 2006 = 123 days; December 30, 2006 through December 31, 2006 = 1 day. Totals days absent = 295.

² Exhibit 3.

³ Exhibit 4, p. 2.

“was/am a full-time college student at this time” and that she would be requesting the “colleges involved to resubmit a corrected copy of my verification of education form.”⁴

The Division provided Ms. W. with several more opportunities to provide the requested information; each time she failed to do so. Eventually, on October 8, 2007, the Division issued its informal appeal decision denying her application for failure to provide information on the prescribed forms.⁵ On November 7, 2007, Ms. W. filed her request for a formal hearing by correspondence. Her request was not accompanied by the completed form. She claimed that she did not receive the Division’s previous requests for information and that she has not failed to provide the information requested by the Division; rather, the information she provided was incomplete or insufficient.⁶ Ms. W. argued that she was born in Alaska, she is an Alaska resident attending school out of state, she is registered to vote in Alaska and her father is a disabled veteran.

The Division argued that Ms. W. does not deny that she was absent for 295 days during in 2006. The Division denied Ms. W.’ 2007 PFD application because she did not provide all the information it requested. Therefore, under 15 AAC 23.173, the Division argues that it appropriately denied her application for a 2007 PFD.⁷

By notice dated November 15, 2007, Ms. W. was given until December 17, 2007, to send any additional documents or correspondence for consideration in this formal appeal. The Division was given the same deadline. Both were given until December 27, 2007, to respond to any documents received from the other. The Division filed a position statement. Ms. W. filed nothing.

III. Discussion

To be qualified to receive a PFD the applicant must be an Alaska resident and meet a number of eligibility criteria,⁸ including providing *all* information for processing appropriately

⁴ Exhibit 4, p. 2.

⁵ Exhibit 6.

⁶ Exhibit 7, p. 2.

⁷ 15 AAC 23.173(a) provides in part: “An individual must indicate, on forms prescribed by the department, information required by the department that will support the claim of residency...;” 15 AAC 23.173(d) provides in part: “If an individual has not provided *all* information for processing requested by the department ..., the application *will be denied.*” (emphasis added)

⁸ AS 43.23.005(a).

requested by the Division on forms prescribed by the Division.⁹ By regulation, failure to provide this information on prescribed forms will result in denial of the application.¹⁰ Under AS 43.23.015, the Commissioner of Revenue has adopted regulations to determine the eligibility of individuals for PFDs. The Department of Revenue is bound by its own regulations.¹¹ It is the applicant's burden to establish that he or she is eligible for a PFD.¹²

The Division provided Ms. W. with several opportunities to complete the Education Verification form. Each time, she failed to do so. Even at this late stage in the proceedings, Ms. W. has failed to provide a completed Education Verification form. All the Division can do is supply the form; it cannot make an applicant complete the form. As a PFD applicant, Ms. W. is required to provide *all* the information appropriately requested by the Division on forms prescribed by the division.¹³ Therefore, when Ms. W. did not provide a completed Education Verification Form after several requests to do so, the Division correctly denied her application for a 2007 PFD.

IV. Conclusion and Order

After several opportunities to do so, C. Q. W. has not provided a completed Education Verification form as appropriately requested by the Division. The decision of the Permanent Fund Dividend Division to deny the application of C. Q. W. for 2007 permanent fund dividend is **AFFIRMED**.

DATED this 24th day of January, 2008.

By: Signed
Rebecca L. Pauli
Administrative Law Judge

⁹ See generally 15 AAC 23.173.

¹⁰ 15 AAC 23.173(d);

¹¹ See, e.g., *Brandon v. State, Dep't of Corrections*, 73 P.3d 1230, 1235 (Alaska 2003).

¹² 15 AAC 05.030(h).

¹³ 15 AAC 23.173(a).

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 R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 25th day of February, 2008.

By: Signed
Signature
Rebecca L. Pauli
Name
Administrative Law Judge
Title

[This document has been modified to conform to technical standards for publication.]