

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

In the Matter of :)	
)	
E. C. and)	
A. C., minor,)	
)	OAH No. 08-0559-PFD
<u>2007 Alaska Permanent Fund dividend</u>)	DOR No. 2007-039-3016

CORRECTED DECISION¹

I. Introduction

E. C. applied for 2007 Alaska Permanent Fund dividends for herself and her minor daughter A. The Permanent Fund Dividend Division (Division) denied the applications on July 20, 2008.² Following an informal conference, the Division issued a decision sustaining the denials.³

Ms. C. filed a timely appeal and requested a hearing. The matter was referred to the Office of Administrative Hearings and the assigned administrative law judge conducted a telephonic hearing on November 17, 2008. Ms. C. and her husband testified; Susan Pollard represented the Division.

Because Ms. C. and her daughter had established residency in Hawaii prior to the date on which their applications were complete, the Division's decision to deny the applications is affirmed.

II. Facts

Prior to January 1, 2006, E. C. was living in Alaska with her partner, L. C., and their two children, A. and M. E. and L. C. were working at Anchorage restaurants.⁴ In July, 2006, the family traveled to Hawaii for E. and L. C.'s wedding.⁵ E. and A. C. traveled to Hawaii for two weeks in January-February, 2007, when E.'s mother took ill;⁶ L. and M. C. remained at home in

¹ The Department of Revenue case number shown in the caption has been corrected.
² Ex. 3, pp. 2, 10.
³ The record includes an informal conference decision sustaining the denial of E. C.'s application. Ex. 5, pp. 1-3. Although there is no informal conference decision in the record regarding A. C.'s application, Ms. C.'s appeal included her daughter's application. See Ex. 4, p. 3.
⁴ Ex. 4, pp. 3, 7, 9; Ex. 6, p.2.
⁵ Ex. 4, pp. 4, 7-8.
⁶ Ex. 4, pp. 4-5, 12, 14.

Anchorage. While she and her daughter were in Hawaii, on January 30, 2007, Ms. C. filed electronic applications for herself, her husband, and their children.⁷ For each application, Ms. C. answered “yes” to the question on the online application form asking if the applicant was present in Alaska.⁸ Also on January 30, Ms. C. mailed the signature page for each application from Hawaii.⁹

After E. and A. C. had rejoined L. and M. C. in Anchorage in February, 2007, Ms. C. and her husband decided to terminate their Alaska residency and move to Hawaii. On May 27, 2007, the family moved to Hawaii.

Because the signature pages had been mailed from Hawaii, but the applications stated that the applicants were in Alaska, on May 31, 2007, the Permanent Fund Dividend Division (Division) sent E. C. a request for additional information, to be submitted no later than July 13.¹⁰ Because the C.’s were no longer at their former address in Alaska, they did not receive the request and they did not submit the requested information. On July 20, 2007, the Division denied E. and A. C.’s applications.¹¹ The Division later issued an informal conference decision confirming the denial of the applications.¹²

III. Discussion

Ms. C.’s appeal is based on the premise that if she and A. were Alaska residents through the date she filed their applications (January 30, 2007), they are residents for purposes of the 2007 dividend. However, that premise is incorrect. AS 43.23.005(a)(2) provides that an individual must be an Alaska resident on the date of application.¹³ A regulation promulgated by the department, 15 AAC 23.993(b), provides that the date of application is not the date the

⁷ Ex. 1.

⁸ Ex. 1, pp. 2, 4, 6, 8.

⁹ Ex. 1, pp. 1, 3, 5, 7, 9.

¹⁰ Ex. 2.

¹¹ Ex. 3, pp. 2-3, 10. L. C.’s application was denied at the same time, for the same reasons. Ex. 3, p. 10. M. C.’s application had been denied in May, for failure to provide information in response to an earlier request. Ex. 3, pp. 14. That application was again denied in July, based on the lack of an eligible sponsor. Ex. 3, p. 15. The Division has subsequently determined that L. C. and M. C. were eligible for the 2007 dividend because their applications were facially complete when filed: both were in Alaska at the time, and therefore neither was required by the application form to submit any supplemental information.

¹² The record includes informal conference decisions on E. and L. C.’s applications, but none on either of the children’s applications. Ex. 5, pp. 1-3, 8-10.

¹³ AS 43.05.005(a)(2) states that an individual is eligible to receive a dividend if, among other requirements, the individual “is a state resident on the date of application.”

applicant files the application; it is the date the application is “complete.”¹⁴ That same regulation also states that an application is complete “if it provides all information that is required by [Alaska law], including supplemental or additional information required by or requested under 15 AAC 23.173.”¹⁵

In this case, Ms. C.’s and A.’s applications were not complete when filed: they lacked supplemental information requested on the face of the application form if the applicant was not in Alaska at the time the application was filed.¹⁶ The applications were also not complete on May 31, 2007, when the Division requested supplemental information under 15 AAC 23.173. By that time both E. and A. C. had terminated their Alaska residency and were residing in Hawaii.

IV. Conclusion

Because E. and A. C. did not maintain Alaska residency until their applications were complete, they are ineligible for the 2007 dividend. The Division’s decision is therefore **AFFIRMED**.

DATED March 18, 2009.

Signed _____
Andrew M. Hemenway
Administrative Law Judge

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 Corrected 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 March 18, 2009.

Signed _____
Andrew M. Hemenway
Administrative Law Judge

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

¹⁴ 15 AAC 23.993(b) defines the “date of application” as “the date on which an application...that was timely filed is complete.”

¹⁵ 15 AAC 23.993(b)(2).

¹⁶ See, e.g., In Re C.T., OAH No. 08-0698-PFD at 4-5 (June 6, 2008).