

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

IN THE MATTER OF)
)
 R. A. and her child)
 S. A.)
)
2008 Permanent Fund Dividend)

Case No. OAH 09-0456-PFD
Agency Case no. 2008-051-8716

DECISION

I. Introduction

R. A. timely applied for 2008 permanent fund dividends for herself and on behalf of her child S. A. The Permanent Fund Dividend Division (“the division”) determined that the applicants were not eligible, and it denied the applications initially and at the informal appeal level. At Ms. A.’s request a formal hearing was held on October 21, 2009. PFD Specialist Peter Scott represented the division. Ms. A. did not appear or show cause for her failure to appear; this decision is therefore based on the record in accordance with 15 AAC 05.030(j).

Ms. A. is not eligible for a 2008 dividend because she disclosed in a court proceeding that she was a resident of Oregon during the qualifying year.

II. Facts

During 2007 Ms. A. was living in Portland, Oregon, attending medical school. On February 15, 2007, Ms. A. signed a Petition for Unlimited Legal Separation that was notarized and apparently filed in the Multnomah County Circuit Court. The petition stated in part that “each party has been a resident and domiciliary of the State of Oregon for six continuous months immediately prior hereto.”

III. Discussion

At a formal hearing, the person who requested the hearing has the burden of demonstrating that the division’s decision was in error.¹ Regardless of any other eligibility factors, a person is not eligible for a permanent fund dividend if at any time during the qualifying year the person has disclosed in a court proceeding or affidavit that the individual is a resident of another state.² Because Ms. A. disclosed in an affidavit for a court proceeding that she was an Oregon resident in 2007, she is not eligible for a 2008 dividend.

¹ 15 AAC 05.030(h).
² 15 AAC 23.143(d)(8).

Ms. A. has not provided any evidence directly relating to S.'s eligibility. While it may be possible that S. would be eligible if adequate information had been provided on her behalf, Ms. A. may not serve as a sponsor for S. because Ms. A. is not eligible. No other individual has been named as a substitute sponsor, and neither Ms. A. nor any other individual has demonstrated a need to appoint another person as S.'s sponsor under 15 AAC 23.113(g). Ms. A. has not met her burden of demonstrating that the division's decision to deny S.'s application was in error.

IV. Conclusion

Ms. A. is not eligible for a 2008 dividend because during the qualifying year she disclosed in a court proceeding or affidavit that was a resident of another state. Ms. A. has not met her burden of demonstrating that the division's decision to deny S.'s application was in error. The division's decision to deny the applications of R. A. and S. A. for 2008 permanent fund dividends is **AFFIRMED**.

DATED this 21st day of December, 2009.

By: Signed
DALE WHITNEY
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 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 22nd day of January, 2010.

By: Signed
Signature
Dale Whitney
Name
Administrative Law Judge
Title

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