

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

IN THE MATTER OF)
)
 N. S. & I. B.)
) Case No. OAH 10-0066-PFD
)
2009 Permanent Fund Dividend)

DECISION

I. Introduction

K. B. timely applied for 2009 permanent fund dividends on behalf of her two minor children, N. S. and I. B. The Permanent Fund Dividend Division (“the division”) determined that the children were not eligible, and it denied the applications initially and at the informal appeal level. At Ms. B.’s request, a formal hearing was held on March 15, 2010. PFD Specialist Peter Scott represented the division by telephone. Ms. B. did not appear at the hearing or show cause for her failure to appear; this decision is therefore based on the record in accordance with 15 AAC 05.030(j).

Because the children were unallowably absent during the qualifying year, the division’s decision to deny the applications is affirmed.

II. Facts

During 2008, the children were out of Alaska for 271 days living with their grandmother. The children may have been in the legal custody of the State of Alaska during this time. The children are too young to receive secondary education, and they were not absent for any of the reasons listed in AS 43.23.008.

III. Discussion

In order to qualify for a permanent fund dividend, the applicant must have been physically present in Alaska all through the qualifying year, or only absent for reasons specifically allowed by AS 43.23.008.¹ The children were not absent for any of the listed reasons, which includes absences of up to 180 days for any reason consistent with Alaska residency, and they are therefore not eligible for 2009 dividends.

The division places emphasis on a discussion of who would be an appropriate sponsor for the children. If the children were eligible for dividends, it would be necessary to find an alternate sponsor for them under 15 AAC 23.113(g). Potential sponsors might include Ms. B., the

¹ AS 43.23.005(a)(6).

Department of Health and Social Services, or another agency or individual qualified to represent the children's interests. Generally, lack of a sponsor with custody is not a valid reason to deny the application of an Alaskan child for a permanent fund dividend, and the division should take an extra measure of care to protect the interests of our state's children when they are in need of a sponsor.

In this case, although the children might still be Alaskan residents, they were unallowably absent during the qualifying year and are not eligible for that reason. Therefore it is not necessary to identify the person or agency that would be the best sponsor for the children.

IV. Conclusion

Because they were unallowably absent during the qualifying year, the children are not eligible for 2009 dividends. The decision to deny the applications of N. S. and I. B. for 2009 permanent fund dividends is affirmed.

DATED this 7th day of May, 2010.

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 10th day of June, 2010.

By: Signed _____
Signature
Terry L. Thurbon _____
Name
Chief Admin. Law Judge _____
Title

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