

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

IN THE MATTER OF	)	
J K Z	)	OAH No. 12-0378-PFD
	)	
<u>2012 Permanent Fund Dividend</u>	)	Agency No. 2012-011-3140

**DECISION & ORDER**

**I. Introduction**

This case is Ms. J K Z's appeal of the Permanent Fund Dividend Division's (Division's) denial of her 2012 permanent fund dividend (PFD) application because she was on disqualifying absences from Alaska in 2011. Ms. Z timely applied for a 2012 permanent fund dividend. The Division determined that Ms. Z was not eligible, and it denied the application initially and at the informal appeal level. Ms. Z requested a formal hearing. Administrative Law Judge Mark T. Handley reviewed and decided the appeal. Ms. Z did not appear for her hearing. Pete Scott represented the Division and filed the agency record as well as a position paper.

Having reviewed the record in this case and after due deliberation, the Administrative Law Judge concludes that Ms. Z is disqualified from receiving a 2012 PFD. Ms. Z was absent attending college, but she was only a part-time student for too long in 2011 to qualify for a 2012 PFD.

**II. Facts**

In her request for a formal hearing, Ms. Z asserted that she was a full-time student from January 3, 2011 to March 18, 2011. However, the evidence in the record shows that it is more likely than not that during 2011, the qualifying year for a 2012 dividend, Ms. Z was absent more than 180 days and was absent more than 120 days as a part-time student. Ms. Z was absent from Alaska for all but 19 days in 2011. Ms. Z was absent, living in Washington as a part-time student for 203 days in 2011. Ms. Z was absent living in Washington as a full-time student for 80 days in 2011. Ms. Z was living in Washington when she was not enrolled as a student for 63 days in 2011.<sup>1</sup>

Ms. Z admitted on her 2012 PFD application that she was absent more than 180 days in 2011.<sup>2</sup> Ms. Z's education verification forms indicate that she was a part-time student in Washington State for more than 120 days in 2011.<sup>3</sup>

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<sup>1</sup> Exhibits 1&2.

<sup>2</sup> Exhibit 1.

<sup>3</sup> Exhibit 2.

### III. Discussion

Several requirements must be met to be eligible for a PFD. Some of these requirements are listed in Alaska Statute 43.23.005. One of the requirements is that the applicant “was, at all times during the qualifying year, physically present in the state or, if absent, was absent only as allowed in Alaska Statute 43.23.008.”<sup>4</sup>

Alaska Statute 43.23.008(a) lists a number of reasons a person can be absent from Alaska and still qualify for a dividend. The list includes reasons such as military service, education, serving in Congress, caring for a terminally ill family member, receiving continuous medical treatment, and a few other reasons. Reason number (17) allows absences for any reason consistent with Alaska residency, so long as the cumulative absences total fewer than 180 days, or fewer than 120 days in addition to time as a full-time student, or fewer than 45 days in addition to absences for other listed reasons.

Absences from Alaska that do not meet the requirements of Alaska Statute 43.23.008 disqualify an individual from PFD eligibility. Alaska Statute 43.23.008(a)(17)(B) disqualifies individuals absent more than 120 days in addition to absences for the full-time educational reasons listed under Alaska Statute 43.23.008(a)(1)-(2), if absent more than 180 days cumulatively during the PFD qualifying year. Therefore, a college student absent more than 180 total days and more than 120 days with less than full-time student status during the qualifying year is not eligible for a PFD.

Ms. Z’s 2011 absences fall into this category. No law gives the PFD Division, or the administrative law judge, the legal authority to grant PFDs to people who were absent for reasons, no matter how good, that are disqualifying under the provisions of Alaska Statute 43.23.008(a)(17).

It is unfortunate if Ms. Z did not understand that taking less than a full-time course load in 2011 would make her ineligible for a 2012 PFD. Under the law, however, she does not qualify for a 2011 PFD.

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<sup>4</sup> AS 43.23.005(a)(6).

**IV. Conclusion**

Ms. Z's 2011 absences from Alaska fell within a category of absences that are disqualifying for the purpose of PFD eligibility. Ms. Z therefore does not qualify for a 2012 dividend.

DATED this 12<sup>th</sup> day of February, 2013.

By: Signed  
MARK T. HANDLEY  
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 11<sup>th</sup> day of March, 2013.

By: Signed  
Signature  
Mark T. Handley  
Name  
Administrative Law Judge  
Title

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