

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

In the Matter of)	
)	
H T (minor))	OAH No. 13-1696-PFD
)	Agency No. 2013-061-4037
<u>2013 Permanent Fund Dividend</u>)	

DECISION

I. Introduction

H T is an infant born in 2012. Her mother applied for a 2013 Permanent Fund Dividend (PFD) on her behalf. The Permanent Fund Dividend Division found the child ineligible, and it denied the application initially and at the informal appeal level. H’s mother requested a formal hearing on H’s behalf. It took place on December 27, 2013, with Mrs. T providing testimony in support of her daughter’s application.

The denial is upheld because H was not an Alaska resident for the entire qualifying year for the 2013 PFD, and she does not fit within the narrow exception for certain children born to or adopted by Alaskans during the qualifying year.

II. Facts

There are no material facts in dispute in this case. H J T was born in Alaska on 00/00/12.¹ Her parents, N and Z T, had moved to Alaska a few months earlier, in the late spring of 2012.²

N and Z knew that they would not themselves qualify for the 2013 PFD, having been Alaska residents for only part of the qualifying year.³ Based on a conversation with a PFD Division employee, however, they thought H could qualify. Acting as H’s sponsor, N applied on her behalf in March of 2013.⁴ She believed, in keeping with prior PFD Division practice, that a different sponsor might later be substituted for herself (she would later propose the child’s grandmother, Y X, for this role, as Ms. X, unlike herself, was an eligible sponsor).⁵

1 Ex. 1, p. 3 (birth certificate).
2 Testimony of N T.
3 *Id.*
4 Ex. 1, p. 1 (web application).
5 Testimony of N T.

III. Discussion

The qualifying year for the 2013 dividend was 2012.⁶ In order to qualify for a PFD, the applicant must, among other things, have been “a state resident during the entire qualifying year.”⁷ There are exactly two exceptions to this requirement. One of them (not relevant to this case) applies to certain individuals who die during the qualifying year;⁸ the other covers certain individuals who are born during the qualifying year.⁹

The exception for individuals born during the qualifying year only covers a “minor [who] was born to or adopted by an individual who is eligible for a dividend for the current dividend year.”¹⁰ H was born to Z and N T, and neither of them was eligible for a 2013 dividend. This means that, for H, there is no applicable exception to the requirement that she be “a state resident during the entire qualifying year.” H was not a state resident for the entire qualifying year, because she was not born until October.¹¹

Because H did not meet the basic residency requirement, it is not necessary to reach the question of whether an eligible sponsor could have been substituted in place of her mother. Having an eligible sponsor does not confer eligibility on an otherwise ineligible individual.

IV. Conclusion

Although she may look forward to many PFDs in the future if she remains an Alaskan, H T was not eligible for a PFD in the first year after she was born. The decision of the Permanent Fund Dividend Division to deny her application for a 2013 Permanent Fund Dividend is therefore AFFIRMED.

DATED this 11th day of March, 2014.

By: Signed _____
Christopher Kennedy
Administrative Law Judge

6 AS 43.23.095(5).

7 AS 43.23.005(a)(3).

8 AS 43.23.005(h).

9 AS 43.23.005(c).

10 *Id.*

11 *See In re S. & D.D.*, OAH No. 04-0021-PFD (Thurbon, CALJ, on behalf of Commissioner of Revenue, 2005) (reprinted at Ex. 7) (baby born in January of qualifying year was not resident for entire qualifying year).

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 Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 7th day of April, 2014.

By: Signed
Signature
Christopher Kennedy
Name
Administrative Law Judge
Title

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