

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

In the Matter of :)	
)	
E M. L)	
)	OAH No. 13-1735-PFD
<u>2013 Alaska Permanent Fund Dividend</u>)	DOR No. 2013-065-4206

DECISION

I. Introduction

E M. L filed a timely application for a 2013 Alaska Permanent Fund dividend. The Permanent Fund Dividend Division denied the application and Ms. L filed an appeal. The matter was referred to the Office of Administrative Hearings for a hearing by correspondence.¹

Because Ms. L was incarcerated for a period of time during 2012 as a result of an Alaska misdemeanor conviction after two or more prior misdemeanor convictions, she is ineligible for the 2013 dividend. The division’s decision is therefore affirmed.

II. Facts

E M. L has been convicted of three misdemeanor offenses: 00/00/2012 (No. 2NO-12-00000-CR; 00/00/2007 (No. 3AN-06-00000-CR); and 00/00/2006 (No. 3AN-06-00000-CR).² Ms. L was incarcerated for three days, November 28-December 1, 2012, as a result of the 2012 misdemeanor offense.³

III. Discussion

AS 43.23.005(d)(2)(B) provides that an individual is ineligible for an Alaska Permanent Fund dividend if during the qualifying year, “the individual was incarcerated as a result of the conviction in this state of a...misdemeanor if the individual has been convicted of...(ii) two or more prior misdemeanors as defined in AS 11.81.900.” AS 11.81.900 (b)(37) defines a misdemeanor as a crime⁴ “for which a sentence of imprisonment for a term of more than one year may not be imposed.”

¹ The parties were provided an opportunity to submit documents in support of their position, and to respond to any documents submitted by the other party. The division submitted a position statement and Exhibits 1-7. Ms. L did not submit any documentation.

² See Ex. 4.

³ Id.

⁴ A “crime” is defined as an offense for which a sentence of imprisonment is authorized. AS 11.81.900(b)(11).

The qualifying year for the 2013 dividend was 2012. Thus, Ms. L is disqualified from eligibility for the 2013 dividend if she was incarcerated in 2012 as a result of conviction in Alaska of a misdemeanor, and she had been convicted of two or more prior misdemeanors.

IV. Conclusion

The undisputed evidence submitted by the division establishes that Ms. L was incarcerated in 2012, the qualifying year for the 2013 Alaska Permanent Fund dividend, as a result of an Alaska misdemeanor conviction, and she had two misdemeanor convictions prior to 2012. She is therefore ineligible for the 2013 dividend. The division's denial of her application is AFFIRMED.

DATED April 2, 2014.

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 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 28th day of April, 2014.

By: *Signed* _____
Signature
Andrew M. Hemenway
Name
Administrative Law Judge
Title

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