

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

In the Matter of)	
)	
S H)	
)	OAH No. 15-0615-PFD
<u>2014 Permanent Fund Dividend</u>)	Agency No. 2014-056-1182

DECISION

I. Introduction

S M H is a 2014 Permanent Fund Dividend (PFD) applicant who now lives in Hawaii. The Permanent Fund Dividend Division denied her application on the basis of nonresidency. After that result was upheld at the informal appeal level, Ms. H requested a formal hearing by correspondence. She received that hearing on June 25, 2015. Because she is elderly, she did not participate herself but was ably represented by her daughter, who holds a power of attorney for her.

The PFD Division’s denial of Ms. H’s application is affirmed because the evidence shows that she did not have the “intent to remain” necessary to be an Alaska resident when she applied for the dividend. This circumstance disqualifies her from eligibility.

II. Facts

Ms. H, who is in her late seventies, lived in Alaska from early 2008 until October of 2013.¹ In that month, she traveled to Hawaii to stay with her son. When she left Alaska, she may have intended to return in two or three months. However, her health worsened, and she stayed in the islands. By sometime in February, it became clear that she should stay in Hawaii permanently, and before the end of the month her daughter shipped her belongings from Alaska to Hawaii.²

On February 21, 2014 Ms. H sent in a PFD application that had been filled out by her daughter.³ She and her daughter thought she would still be eligible since she had spent most of 2013, the qualifying year, in Alaska. The application frankly stated that she had moved out of Alaska.⁴ It is undisputed that by the time the application was prepared, she had already decided she was not coming back to Alaska.⁵

¹ Ex. 1, p. 2; testimony of T G.
² Testimony of Ms. G.
³ Ex. 1, p. 1.
⁴ Ex. 1, p. 2.
⁵ Testimony of Ms. G.

III. Discussion

To be eligible for a dividend, an individual must be “a state resident *on the date of application.*”⁶ It is not enough to be a resident throughout the qualifying year (2013); the applicant’s residency has to continue through the date the person applies. To be a state resident, a person must have “the intent to remain in the state indefinitely and to make a home in the state.”⁷

When Ms. H applied for a 2014 dividend, she had already decided to make her move to Hawaii a permanent one. Because she lacked the intent to continue making her home in Alaska, she had lost her status as an Alaska resident, and she was not eligible for a dividend.

IV. Conclusion

The decision of the Permanent Fund Dividend Division to deny the 2014 Permanent Fund Dividend of S M H is AFFIRMED.

DATED this 25th day of June, 2015.

By: Signed
Christopher Kennedy
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 Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 21st day of July, 2015.

By: Signed
Signature
Christopher Kennedy
Name
Deputy Chief Administrative Law Judge
Title

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

⁶ Alaska Statute 43.23.005(a)(2) (italics added).

⁷ Alaska Statute 01.10.055. Residency can continue when an individual is absent from the state, but the intent to remain a resident must continue. *Id.*