

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

In the Matter of)	
)	
T B AND Z, N & Y B (MINORS))	OAH No. 17-0886-PFD
<hr/>)	Agency No. 2017-052-1679

DECISION

I. Introduction

T B submitted applications for 2017 Permanent Fund Dividends (PFD) for himself and his three minor children Z, N and Y. The Permanent Fund Dividend Division (the Division) denied Mr. B’s application because he did not establish Alaska residency until July 15, 2016. The children’s applications were denied because they did not have an eligible sponsor. In addition, Y B’s application was denied because he did not establish Alaska residency until after January 1, 2016. The division did not change its position during the informal appeal process, and Mr. B filed a timely request for hearing by correspondence. The hearing record closed on October 6, 2017. But Mr. B did not file any additional documents. PFD specialist Peter Scott represented the division and filed a position paper.

Because Mr. B and his children have not met their burden of proof that they established Alaska residency before January 1, 2016, and because Z, N & Y B do not have an eligible sponsor for the 2017 PFD, the Division’s decision is affirmed.

II. Facts

T B and his three minor children, Z, N and Y are U.S. Nationals.¹ All four family members reported different dates for when they established Alaska residency: Mr. B on July 15, 2016; Z August 10, 2015; N on December 24, 2015; and Y on December 5, 2016.² The three children arrived in Alaska with other relatives, while Mr. B arrived in Alaska by himself on July 15, 2016.³

After the Division denied the B family’s applications, Mr. B filed informal appeal requests for all four family members.⁴ Mr. B did not, however, explain the basis for his

¹ Ex. 1 at 5, 9, 13, & 17.
² Ex. 1 at 2, 6, 10, & 14.
³ Ex. 6 at 2.
⁴ Ex. 2; Ex. 3.

appeals.⁵ After being unable to contact Mr. B for an informal conference, the Division contacted the Division of Public Assistance to determine whether and when Mr. B first applied for public assistance benefits. According to the Division of Public Assistance, Mr. B first applied for public benefits on July 22, 2016.⁶ The Division upheld the denial of the B family's applications, reasoning that none of the family members had established residency before January 1, 2016; Mr. B maintained a principal home outside of Alaska during the 2016 qualifying year; and the children did not have an eligible sponsor.⁷

After the B family's Informal Appeals were denied, Mr. B filed a timely request for hearing by correspondence.⁸ In his request, Mr. B provided the following rationale for his appeal:

To be honest I (T B) and my three children arrived separately in Alaska in the year 2016. I don't have our boarding passes and this is the first time I heard about the PFD program, so I just fill in an application which is I might get lucky to take care of my children.⁹

Mr. B did not file a position statement or any additional documents. PFD specialist Peter Scott represented the division and filed a position paper. The hearing record closed on October 6, 2017.

III. Discussion

To qualify for a permanent fund dividend, a person must be an Alaska resident during the entire qualifying year and at the date of the application.¹⁰ The qualifying year for the 2017 dividend was 2016.¹¹ A person cannot become a resident while living outside Alaska.¹² Instead, a person becomes an Alaska resident by being physically present in the state with the intent to remain indefinitely and to make a home in the state.¹³ For a minor child to be eligible for a PFD, the child must be "in the lawful and physical custody of an individual who meets the requirements of a sponsor."¹⁴

⁵ Ex. 3.

⁶ Ex. 4.

⁷ Ex. 5.

⁸ Ex. 6.

⁹ Ex. 6.

¹⁰ AS 43.23.005(a)(2), (3).

¹¹ AS 43.23.095(6).

¹² 15 AAC 23.143(b).

¹³ AS 01.10.055(a).

¹⁴ 15 AAC 23.113(b)(1).

In a PFD denial appeal, the person who filed the appeal, in this case, Mr. B, has the burden of proving by a preponderance of the evidence that the Division's decision is incorrect.¹⁵ Mr. B did not meet his burden of proof. The preponderance of the evidence indicates that Mr. B and his children established residency after January 1, 2016. Indeed, Mr. B admitted as much.¹⁶ And even if some of his children moved to Alaska before January 1, 2016, because Mr. B did not establish residency until at least July 15, 2016, he does not meet the requirements of a sponsor for his minor children.¹⁷ Accordingly, the B family is ineligible for the 2017 PFD, and the Division's decision to deny their applications is affirmed.

IV. Conclusion

Mr. B and his three children, Z, N and Y, were not Alaska residents for all of 2016. They do not qualify for a 2017 PFD. The Division's denial is affirmed.

Dated: December 1, 2017

Signed

Jessica Leeah
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 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 8th day of January, 2018.

By: Signed

Signature
Jessica Leeah

Name
Administrative Law Judge

Title

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

¹⁵ 15 AAC 05.030(h).

¹⁶ Ex. 6.

¹⁷ 15 AAC 23.113(b)(1).