

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

In the Matter of)	
)	
L. O. (MINOR))	OAH No. 24-0489-PFD
)	
2023 Permanent Fund Dividend)	

DECISION

I. Introduction

The Permanent Fund Dividend Division denied a 2023 Permanent Fund Dividend (“PFD”) for minor L. O. because she was absent from the state for more than 180 days while living with her father in Washington. Ms. O.’s mother, C. Q., appealed on her behalf. Ms. Q. has the burden of demonstrating that the Division incorrectly denied her daughter’s application. As discussed below, Ms. Q. has not met this burden. Accordingly, the Division’s decision denying Ms. O.’s 2023 PFD is affirmed.

II. Facts

L. O., age 16, grew up in Alaska and received PFDs steadily for dividend years 2009 through 2020.¹ Her parents, C. Q. and U. O., divorced in 2010.² They have a custody agreement giving Ms. Q. primary physical custody, which arises when a child lives with the parent at least 70 percent of the time.³ They also have an oral agreement for Ms. O. to live with her father during the school year whenever he is in a “less deployable position” with his work for the military.⁴ In accordance with that oral agreement, Ms. O. lived with her father in Washington during the 2019-2020, 2020-2021, and 2021-2022 school years.⁵ Thus in 2022 — the qualifying year for a 2023 PFD — Ms. O. lived the first 202 days of the year in Washington with her father, returning to Alaska to live with her mother on July 21, 2022.⁶

¹ Ex. 1 at 5.

² Ex. 6 at 3.

³ Ex. 6 at 7.

⁴ Ex. 6 at 1.

⁵ *Id.*

⁶ Ex. 1 at 4; Ex. 6 at 1.

Ms. Q. applied for a 2023 PFD for Ms. O.⁷ The Division denied the application because Ms. O. was absent from the state for more than 180 days, living with a parent who is not an Alaska resident or otherwise an eligible sponsor to excuse her absence from the state.⁸ Ms. Q. requested an informal appeal, stating that Ms. O. lived in Alaska July 2022 through the end of that year, was enrolled in high school here, and that her father is in the military.⁹ In an informal appeal decision, the Division again denied Ms. O.’s application because of her absence from the state for more than 180 days in 2022.¹⁰

Ms. Q. requested this formal appeal and asked that it be heard on written correspondence.¹¹ With this appeal, Ms. Q. reiterated that Ms. O. lived with her father in Washington during the first half of 2022, returning to Alaska on July 21, 2022 where she enrolled in an Anchorage high school, and that her father is in the military.¹² Ms. Q. included some photographs and medical, school, and travel records to support her statement that Ms. O. lived in Alaska from July 21 through the end of 2022.¹³

The Division provided a position statement and exhibits for this appeal. Ms. Q. was given an opportunity to respond, but did not submit anything further.

III. Discussion

To be eligible for a 2023 PFD, Ms. O. needs to have been an Alaska resident and physically present in the state for calendar year 2022. If she was absent from the state more than 180 days, it needs to be for one of the reasons allowed by statute.¹⁴ Ms. Q. has the burden of showing, on behalf of Ms. O., that the Division incorrectly found that she was absent more than 180 days without an allowed reason.¹⁵

Throughout the application and appeal processes, Ms. Q. has readily acknowledged that her daughter lived out of state from January 1 through July 21, 2022 — a total of 202 days.

⁷ Ex. 1.

⁸ Ex. 2.

⁹ Ex. 3 at 2.

¹⁰ Ex. 4.

¹¹ Ex. 5 at 1.

¹² Ex. 5 at 2.

¹³ Ex. 5 at 3-23.

¹⁴ AS 43.23.005 (must be state resident “during the entire qualifying year”); AS 43.23.008 (allowable absences); (AS 43.23.295(6) (“‘qualifying year’ means the year immediately preceding January 1 of the current dividend year”).

¹⁵ 15 AAC 23.173(i); 15 AAC 05.030(h).

This absence exceeds the 180 days a resident may be absent from Alaska for any reason and remain eligible for a PFD.¹⁶

To be eligible for a PFD in light of her absence from the state, Ms. O. would need an allowable reason to be out of state.¹⁷ One of those reasons is military service. An active member of the military may remain eligible for a PFD while stationed out of state and can then act as a sponsor for a spouse or children living with the military servicemember.¹⁸ Mr. O. is reportedly in the military, but he is not an Alaska resident and did not file for a 2023 PFD.¹⁹ Because Mr. O. is not eligible for a 2023 PFD, Ms. O. cannot claim an allowed absence based on his military service.²⁰

Another allowed absence is to attend school.²¹ But merely attending school while out of state is not sufficient; attending the school must be a person's primary reason for being out of state. For grades 7-12, living with an ineligible parent does not demonstrate that attending school is a person's primary reason for being out of state.²² Ms. Q. did not submit any other evidence that would support finding Ms. O. was in Washington in the first half of 2022 for purposes of attending school there. To the contrary, she indicated that her daughter was there to spend time with her father, in accordance with the parents' oral custody agreement.²³ Ms. O. thus does not qualify for an allowed absence to attend school.

Because Ms. O. was absent from Alaska more than 180 days in 2022 and does not qualify for any of the allowed absences, including to attend school or as the dependent of a military servicemember, Ms. O. is not eligible for a 2023 PFD.

IV. Conclusion

Ms. Q. did not meet her burden to show that Ms. O.'s absence from Alaska in 2022 did not exceed 180 days or was for an allowed reason set forth in the statute. The Division's decision is therefore affirmed.

Dated: September 19, 2024

¹⁶ AS 43.23.008(a)(17)(A).

¹⁷ AS 43.23.008.

¹⁸ AS 43.23.008(a)(3).

¹⁹ Division Position Statement at 2.

²⁰ AS 43.23.008(a)(3).

²¹ AS 43.23.008(a)(1).

²² 15 AAC 23.163(d).

²³ Ex. 6 at 1.

By: Signed
Signature
Rebecca Kruse
Name
Administrative Law Judge
Title

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]

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 16 day of October, 2024.

By: Signed
Signature
Rebecca Kruse
Name
Administrative Law Judge
Title

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]

