

Sec. 43.23.008. Allowable absences.

(a) Subject to (b) and (c) of this section, an otherwise eligible individual who is absent from the state during the qualifying year remains eligible for a current year permanent fund dividend if the individual was absent

(1) receiving secondary or postsecondary education on a full-time basis;

(2) receiving vocational, professional, or other specific education on a full-time basis for which, as determined by the Alaska Commission on Postsecondary Education, a comparable program is not reasonably available in the state;

(3) serving on active duty as a member of the armed forces of the United States or accompanying, as that individual's spouse, minor dependent, or disabled dependent, an individual who is

(A) serving on active duty as a member of the armed forces of the United States; and

(B) eligible for a current year dividend;

(4) serving under foreign or coastal articles of employment aboard an oceangoing vessel of the United States merchant marine;

(5) receiving continuous medical treatment recommended by a licensed physician or convalescing as recommended by the physician who treated the illness if the treatment or convalescence is not based on a need for climatic change;

(6) providing care for a parent, spouse, sibling, child, or stepchild with a critical life-threatening illness whose treatment plan, as recommended by the attending physician, requires travel outside the state for treatment at a medical specialty complex;

(7) providing care for the individual's terminally ill family member;

(8) settling the estate of the individual's deceased parent, spouse, sibling, child, or stepchild, provided the absence does not exceed 220 cumulative days;

(9) serving as a member of the United States Congress;

(10) serving on the staff of a member from this state of the United States Congress;

(11) serving as an employee of the state in a field office or other location;

(12) accompanying a minor who is absent under (5) of this subsection;

(13) accompanying another eligible resident who is absent for a reason permitted under (1), (2), (5) - (12), (16), or (17) of this subsection as the spouse, minor dependent, or disabled dependent of the eligible resident;

(14) serving as a volunteer in the federal peace corps program;

(15) because of training or competing as a member of the United States Olympic Team;

(16) participating for educational purposes in a student fellowship sponsored by the United States Department of Education or by the United States Department of State;

(17) for any reason consistent with the individual's intent to remain a state resident, provided the absence or cumulative absences do not exceed

(A) 180 days in addition to any absence or cumulative absences claimed under (3) of this subsection if the individual is not claiming an absence under (1), (2), or (4) - (16) of this subsection;

(B) 120 days in addition to any absence or cumulative absences claimed under (1) - (3) of this subsection if the individual is not claiming an absence under (4) - (16) of this subsection but is claiming an absence under (1) or (2) of this subsection; or

(C) 45 days in addition to any absence or cumulative absences claimed under (1) - (16) of this subsection if the individual is claiming an absence under (4) - (16) of this subsection.

(b) An individual may not claim an allowable absence under (a)(1) - (16) of this section unless the individual was a resident of the state for at least six consecutive months immediately before leaving the state.

(c) An otherwise eligible individual who has been eligible for the immediately preceding 10 dividends despite being absent from the state for more than 180 days in each of the related 10 qualifying years is only eligible for the current year dividend if the individual was absent 180 days or less during the qualifying year. This subsection does not apply to an absence under (a)(9) or (10) of this section or to an absence under (a)(13) of this section if the absence is to accompany an individual who is absent under (a)(9) or (10) of this section.

(d) For purposes of (a)(7) of this section, "family member" means a person who is

(1) legally related to the individual through marriage or guardianship; or

(2) the individual's sibling, parent, grandparent, son, daughter, grandson, granddaughter, uncle, aunt, niece, nephew, or first cousin.

History -

(Sec. 5 ch 44 SLA 1998; am Sec. 1 ch 71 SLA 1999; am Sec. 1 ch 69 SLA 2003; am Sec. 1, 2 ch 116 SLA 2003; am Sec. 20, 21 ch 42 SLA 2006; am Sec. 1, 2 ch 36 SLA 2008)

Cross References -

For provisions extending to September 15, 2008, the date by which individuals who may qualify for a permanent fund dividend for 2006, 2007, and 2008 because of the 2008 addition of (a)(16) of this section may apply for the dividend, see Sec. 3, ch. 36, SLA 2008 in the 2008 Temporary and Special Acts.

#### Amendment Notes -

The 1999 amendment, effective January 1, 2000, added present paragraph (4), redesignated subsequent paragraphs accordingly, inserted internal references in paragraph (13), and made internal reference substitutions throughout.

The first 2003 amendment, effective June 12, 2003, in paragraph (a)(3) added the language beginning "or accompanying" to the end of the introductory language and added subparagraphs (A) and (B); updated paragraph references in paragraph (a)(13); and rewrote subparagraphs (a)(14)(A) and (B).

The second 2003 amendment, effective January 1, 2004, substituted "family member" for "parent, spouse, sibling, child, or stepchild" in paragraph (a)(7) and added subsection (d).

The 2006 amendment, effective May 26, 2006, added paragraphs (a)(14) and (a)(15), and made related changes.

The 2008 amendment, effective May 23, 2008, substituted "(16), or (17)" for "or (16)" in paragraph (a)(13), inserted paragraph (a)(16), and changed references to former paragraph (a)(15) to present paragraph (a)(16) four times in paragraph (a)(17) and once in subsection (b).

#### Editors Notes -

Section 35, ch. 42, SLA 2006, makes the 2006 amendments to subsections (a) and (b) of this section retroactive to January 1, 2006.

Section 4, ch. 36, SLA 2008 makes the 2008 amendments of (a) and (b) of this section retroactive to January 1, 2005.

#### Decisions -

Cited in *State v. Andrade*, 23 P.3d 58 (Alaska 2001).

Construction with Federal Soldiers' and Sailors' Civil Relief Act. - Servicemember, who had been discharged from the Navy, was not eligible to claim a Permanent Fund Dividend (PFD) for a certain year where he failed to overcome presumption that he had not been a resident of Alaska for the last five years; servicemember's argument that the Federal Soldiers' and Sailors' Civil Relief Act preempted state law in that area was not persuasive, as that act applied to only two areas, taxation and voting, and PFD was not a tax but a benefit. *Eagle v. Dep't of Revenue*, 153 P.3d 976 (Alaska 2007).