

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

In the Matter of	)	
	)	
U F	)	
	)	
<u>2016 Permanent Fund Dividend</u>	)	OAH No. 16-1399-PFD Agency No. 2016-061-5440

**DECISION**

**I. Introduction**

U F is a 2016 Permanent Fund Dividend (PFD) applicant who now lives in Maryland. The Permanent Fund Dividend Division denied her application on the basis of nonresidency. After that result was upheld at the informal appeal level, Ms. F requested a formal hearing, receiving that hearing by telephone on December 28, 2016.

The PFD Division’s denial of Ms. F’s application is affirmed because the evidence shows that she lost the “intent to remain” necessary to be an Alaska resident prior to the end of the qualifying year and prior to filing her application. This circumstance disqualifies her from eligibility.

**II. Facts**

U F has consistently been completely straightforward with the PFD Division, starting with her application and continuing through the appeals. There are no facts in dispute in this case.

Ms. F lived in Alaska from 2008 until December 20, 2015.<sup>1</sup> On that day, she made a permanent move to Maryland because her husband had been transferred there. She disclosed this move—and its permanent nature—on her later PFD application.<sup>2</sup>

The move was always intended to be permanent. She sold her home in Alaska prior to the end of 2015, purchasing a new one in Maryland the following month. Some of the additional steps involved in a permanent move took more time, but by early March she was living in the new “permanent” residence and had a Maryland driver’s license.<sup>3</sup>

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<sup>1</sup> Ex. 4, p. 2 (Ms. F’s statement with her Request for Informal Appeal).  
<sup>2</sup> Ex. 1, p. 2.  
<sup>3</sup> Ex. 4, p. 2.

On March 31, 2016 Ms. F made an online filing of a PFD application.<sup>4</sup> She thought she would still be eligible since she had spent nearly all of 2015, the qualifying year, in Alaska, and she had not moved into a new permanent residence until early 2016. The application concealed nothing about the circumstances of her move.

### III. Discussion

The Alaska Legislature has provided that, to be eligible for a dividend, an individual must be “a state resident *on the date of application*.”<sup>5</sup> It is not enough to be a resident throughout the qualifying year (2015); 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 [Alaska] indefinitely and to make a home in the state.”<sup>6</sup>

When Ms. F applied for a 2016 dividend, she was already living in Maryland with the intent to remain in that state indefinitely. This made her a Maryland resident, not an Alaska resident.

To be eligible for a dividend, a person must also be “a state resident during the entire qualifying year.”<sup>7</sup> Because she lacked the intent to continue making her home in Alaska, Ms. F lost her status as an Alaska resident just before the end of the qualifying year, even though she may not yet have established residency in a new state. This is an independent reason for being ineligible for the dividend.

Ms. F, who is very articulate, argues forcefully that this situation is unfair. She points out that people moving to Alaska must wait at least a year and eight months before they receive a dividend, and yet eligibility rules seem to cut the other way upon departure—terminating people from the program immediately, without a lag to make up for the delay in becoming eligible when they first came to the state. These, however, are policy choices that are up to the Legislature. The PFD Division and this tribunal have to follow the law as the Legislature has written it.

Ms. F also feels she is being penalized for being honest and straightforward. She points out that snowbirds, who typically leave Alaska in October or November and return in April, are filing their applications from out of state and yet are receiving dividends. She feels these people may be dishonestly claiming that they are in the state when they apply, but in fact they are not.

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<sup>4</sup> Ex. 1. She points out that she would not easily have been able to file much sooner than that because the Internet connection was not up and running at her new home.

<sup>5</sup> Alaska Statute (AS) 43.23.005(a)(2) (italics added).

<sup>6</sup> AS 01.10.055. Residency can continue when an individual is absent from the state, but the intent to remain a resident must continue. *Id.*

In making this argument, Ms. F is simply confused about how the program works. People who spends less than 180 days a year in another state to avoid the Alaska winter can remain an Alaska residents and remain eligible, if they have the “intent” to keep living here indefinitely. Such people can also file an application from outside the state. Although the PFD Division can, and does, keep track of where applications originate (through IP addresses and otherwise), the act of filing from another state does not disqualify a person from residency or from eligibility. Ms. F’s problem is not that she filed from another state, nor that she was honest about doing so; it is that she did not have an intent to return to Alaska and make her home here into the indefinite future.

#### **IV. Conclusion**

The decision of the Permanent Fund Dividend Division to deny the 2016 Permanent Fund Dividend of U F is AFFIRMED.

DATED this 29<sup>th</sup> day of December, 2016.

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 24<sup>th</sup> day of January, 2017.

By: Signed  
Signature  
Christopher Kennedy  
Name  
Administrative Law Judge  
Title

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

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<sup>7</sup> AS 43.23.005(a)(3).