

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

In the Matter of	)	
	)	
C. E.	)	OAH No. 21-1175-PFD
	)	Agency No. 2021-003-8022

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**DECISION**

**I. Introduction**

C. E.’s application for a 2021 Permanent Fund Dividend (PFD) was denied because she spent more than 180 days outside of Alaska during 2020, the qualifying year for the 2021 PFD. That denial is upheld because C. E.’s extended absence from Alaska during 2020 was not for any of the reasons deemed “allowable” under the PFD statutes.

**II. Facts**

C. E. is a respiratory therapist who moved to Alaska in 2019 for a new job. She rented a home in Alaska and moved all of her belongings, including her vehicle, to Alaska. Her job did not work out and she was not able to find in-state employment in her field. She began working as a traveling respiratory therapist outside the state of Alaska beginning in November 2019, which involved taking temporary assignments with different health care providers. While she was working outside the state, the Covid-19 pandemic began. She returned briefly to the state on August 15, 2020, but left the state, again for work as a traveling respiratory therapist, on August 22, 2020. She attempted to find suitable work within the state during this time, including work outside her field, but could not. She did not return to the state again until December 15, 2020. All in all, C. E. was absent from the state 343 days in 2020. While she was outside the state, she continued to maintain her home in Alaska, paying the rent and associated utilities, and kept her belongings there, including her vehicle.<sup>1</sup>

C. E. submitted an online application for a 2021 PFD.<sup>2</sup> Her application disclosed her absences since November 19, 2019, stating that she was a “traveling respiratory therapist

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<sup>1</sup> C. E.’s testimony; Ex. 2, p. 2; Ex. 6, p. 2; Ex. 8, pp. 3 - 4.  
<sup>2</sup> Ex. 1, pp. 1 - 4.

assisting various hospitals during pandemic.”<sup>3</sup> The Division denied C. E.’s PFD application because she was absent from Alaska for 343 days in 2020, the qualifying year for the 2021 PFD. C. E. requested an informal appeal. After it was denied, she requested a formal appeal.<sup>4</sup>

### III. Discussion

The qualifying year for the 2021 dividend was 2020.<sup>5</sup> In order to qualify for the 2021 PFD, C. E. had to have been physically present in Alaska during 2020, the qualifying year for the 2021 PFD, or absent for one of the allowable reasons listed in AS 43.23.008(a). “Regardless of whether the absences were for good reasons, unless the absences fall within one of the . . . categories listed in AS 43.23.008(a),” C. E. would not be eligible to receive a dividend for 2021.<sup>6</sup>

The most a person can be absent from the state during a qualifying year and still be eligible for a PFD is 180 days, unless that time period is extended by an allowable absence.<sup>7</sup> C. E. argued that her absences were caused by a combination of the lack of suitable employment and the Covid-19 pandemic. AS 43.23.008 is the statute that contains the list of allowable absences. An absence from the state for employment reasons is only allowed for active military, State of Alaska employees required to work out of state, Congressional members and their staff, Olympic competitors and trainees, or U.S. Merchant Mariners aboard an oceangoing vessel.<sup>8</sup> The statute does not contain exclusions for absences caused by events such as the Covid-19 pandemic, or the need to temporarily leave the state to find employment, other than the types of employment listed in the statute. It is undisputed that C. E.’s absence from Alaska in 2020 exceeded 180 days. The facts in this case show that it is more likely true than not true that C. E.’s employment does not fall within any of the types of employment related absences provided for in the statute. Her leaving the state for employment purposes therefore does not extend the maximum 180-day period allowed by statute. Consequently, C. E.’s extended absence from the State of Alaska during 2020 makes her ineligible for the 2021 PFD.

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<sup>3</sup> Ex. 1, p. 4.

<sup>4</sup> Exs. 3, 6 – 8.

<sup>5</sup> AS 43.23.295(6).

<sup>6</sup> *In re: J. and D.B.*, OAH No. 05-0282 (Commissioner of Revenue 2006), p. 2.

<sup>7</sup> AS 43.23.008(a)(17)(A).

<sup>8</sup> AS 42.23.008(a)(3), (4), (9) – (11), and (15).

#### **IV. Conclusion**

Because C. E.'s extended absence from Alaska during 2020 of 343 days does not fall within any of the allowable absences provided for in the PFD statutes, she is not eligible for the 2021 PFD. The Permanent Fund Dividend Division's decision to deny C. E.'s application for a 2021 PFD is therefore AFFIRMED.

Dated: July 23, 2021

*Signed*

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Lawrence A. Pederson  
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 30<sup>th</sup> day of August, 2021.

By: Signed  
Lucinda Mahoney  
Commissioner, Department of Revenue

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