

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

In the Matter of	)	
	)	
C. P.	)	OAH No. 25-2303-PFD
	)	
2024 Permanent Fund Dividend	)	

DECISION

I. Introduction

C. P. applied for a 2024 Permanent Fund Dividend (PFD). The Permanent Fund Dividend Division (“Division”) found he was ineligible for that PFD as he had been impermissibly absent from the state. As explained below, Mr. P. is ineligible for a 2024 PFD as he admits he does not meet the statutory eligibility criteria. While Mr. P. argues that the statutory eligibility criteria are arbitrary and unreasonable and that principles of statutory interpretation should require the Division to interpret the law more generously, the law is unambiguous, and Mr. P. failed to provide any legislative history to undermine that reading. Though the legislature has since changed the law to be more generous, the law in effect at the time plainly states that residents in Mr. P.’ circumstances are not eligible to receive the 2024 PFD. The Division’s decision accordingly must be AFFIRMED.

II. Facts

The Parties do not dispute the facts in this matter, and they are drawn from the parties’ briefing and testimony at hearing.

Mr. P., a recipient of the PFD for many years, applied for the 2024 PFD. In his application he reported four absences from Alaska during the qualifying year, 2023.¹ In total these amounted to 203 days out of state: 120 days were for vacation and 83 days were for medical treatment.² The Division denied Mr. P.’ application after finding his absences made him statutorily ineligible for the 2024 PFD. Mr. P. requested an informal appeal and the Division upheld their findings.

In June 2025, the legislature passed a new law with an effective date in 2026 that loosened the eligibility requirements for PFDs in a manner that would have let Mr. P.

¹ AS 43.23.295(6).

² Division’s Position Statement at 1.

qualify. Soon afterwards, Mr. P. filed a request for formal hearing. At hearing, Mr. P. did not dispute that he was absent from the state for longer than statutorily permitted. Instead, he argued that the Division's application of statutory time limits to him was arbitrary and unreasonable. He eschewed any argument that the statutes were unconstitutional and instead asserted that basic principles of statutory interpretation demonstrated the statutory timeframes should not be applied in his case. The tribunal held the record open until September 8, 2025, to allow Mr. P. to try and provide support for his legal claims and allow the Division to respond.

III. Discussion

Mr. P. has the burden of proving by a preponderance of the evidence that he meets the eligibility requirements for a PFD.³ While Mr. P. admitted he was absent from Alaska for a time longer than permitted by AS 43.23.008, he argued that those limitations are impermissibly arbitrary and unreasonable and he is entitled to a PFD under AS 43.23.005 because he is a state resident and intends to remain one.⁴ Mr. P. attempted to frame this as a question of statutory interpretation and stated he was not making an argument that the statute is unconstitutional.⁵ However, he does not identify any ambiguity in the statute, any evidence that it has been applied unevenly, or any legislative history indicating the legislature intended residents in his circumstances to be eligible. No principle of statutory interpretation he presented would permit the Division or this tribunal to ignore plain statutory requirements. As Mr. P. failed to demonstrate that the Division misapplied the relevant statutes, the Division's decision is AFFIRMED.

A. PFD Requirements

Residents of Alaska can receive a PFD each year, but residency alone is insufficient to meet statutory PFD requirements.⁶ The requirement at issue here is that the applicant "was, at all times during the qualifying year, physically present in the state or, if absent, was absent only as allowed in AS 43.23.008."⁷ Accordingly, the legislature determined that physical presence in the state was required to receive the PFD, but various types of

³ 15 AAC 05.030(h).

⁴ P.s' Brief at 1.

⁵ P.s' Testimony.

⁶ AS 43.23.005(a).

⁷ AS 43.23.005(a)(6).

permitted absences would be excused—though some of them for only a limited length of time.⁸ A qualifying medical absence, for example, can be indefinite,⁹ while an absence solely for vacation is limited to 180 days.¹⁰ The legislature also made specific laws governing mixed justifications—such as a vacation absence and a medical absence that occur during the same year. In that situation, which is Mr. P.’ situation, there are two potential routes to absences being excused. The first requires the entire period of absence not to exceed 180 days.¹¹ The second allows for any length of medical absence, but only if the vacation absences do not exceed 45 days.¹²

B. Mr. P. Was Not Eligible for the 2024 PFD

As Mr. P. spent time out of Alaska both on vacation and for medical reasons he only has two routes to eligibility—not exceeding 180 days out of the state or not exceeding 45 days out of the state in addition to a medical absence.¹³ Mr. P. admits he was out of state during 2023 for 203 days, and that 120 of those days were for vacation. While it is unfortunate that Mr. P. may not have been able to predict his need for later medical absences when he went on vacation, those time periods exceed the statutory limits, and Mr. P. is thus statutorily ineligible for the 2024 PFD.¹⁴

Mr. P. does not contest these facts. Indeed, in reference to the various PFD requirements he states that he “met all such requirements—except the provisions of AS 43.23.008(a)(17).”¹⁵ Mr. P. also states he has no dispute with the Division in the manner it applied statutory language and is not alleging that the Division has been applying the standards unfairly.¹⁶ This is an admission that he does not qualify under statute for the PFD.

To try and overcome his statutory ineligibility, Mr. P. argues that the statutory time limits for absences are arbitrary and unreasonable in light of the overall purpose of the PFD and the statute should be interpreted in a way that nullifies these express requirements.¹⁷ While this could be interpreted as a claim of unconstitutionality, Mr. P. specifically avoided

⁸ See, e.g., AS 43.23.008(a)(5) (limiting an absence to settle an estate to 220 cumulative days).

⁹ AS 43.23.008(a)(5).

¹⁰ AS 43.23.008(a)(17)(A). The 180 days may be in addition to certain other absences not at issue here. *Id.*

¹¹ *Id.*

¹² AS 43.23.008(a)(17)(C).

¹³ AS 43.23.008(a)(17)(A), (C).

¹⁴ *Id.*

¹⁵ P.s’ Brief at 2.

¹⁶ P.s’ Testimony.

¹⁷ P.s’ Brief at 4.

any such argument and acknowledged that the statute was constitutional and that the Division had been applying it evenly.¹⁸ Instead, he presented his argument as one based on principles of statutory interpretation.

Mr. P. cites various cases on statutory interpretation to argue reason and practicality must govern the process to ensure a statute's purpose is achieved.¹⁹ These cases provide guidance that a statute should be interpreted by its plain meaning, as well as precedent, reason, policy, and legislative intent.²⁰ Additionally, Mr. P. cites cases focused on rules of regulatory interpretation and discussing how regulations must be consistent with their authorizing statute's purpose and not arbitrary.²¹ Mr. P. uses these tools to argue that, because the purported purpose of the statute is to ensure residents get PFDs, any interpretation of statutory timeframes that prevent bona fide residents from receiving PFDs is arbitrary and unreasonable and thus should not be enforced.²² In support of this argument he makes the following claims:

- That, when considered separately, his absences are both individually permissible and the rest of the statute should be read to avoid conflicts with those individual exceptions.²³
- That the statute is inherently arbitrary and unreasonable as the legislative history does not show that the time limits were established based on specific factors.²⁴
- That the recent statutory amendment—which would render him eligible under identical circumstances next year—reflects the legislature's recognition that the previous law was arbitrary and unreasonable.²⁵

As detailed below, each of these arguments are unpersuasive.

¹⁸ P.s' Testimony. *See generally, In re C. & N. X.*, OAH No. 17-0948-PFD (considering claims of unconstitutionality in very similar circumstances).

¹⁹ P.s' Brief at 4; P.s' Post-hearing Arguments at 1 – 2.

²⁰ *Id.* (citing, among others, *Medicine Crow v. Beecher*, 570 P.3d. 452, 456 (Alaska 2025); *Jones v. State, Dep't of Revenue*, 441 P.3d 966, 972 (Alaska 2019); *Heller v. State, Dep't of Revenue*, 314 P.3d 69, 72 – 73 (Alaska 2013)).

²¹ *See, e.g.*, P.s' Post-hearing Arguments at 2 (citing *Church v. State, Dep't of Revenue*, 973 P.2d 1125, 1129 (Alaska 1999)).

²² P.s' Post-hearing Arguments at 2.

²³ P.s' Brief at 4.

²⁴ P.s' Testimony.

²⁵ P.s' Post-hearing Arguments at 3 – 4.

As Mr. P. suggests, Alaskan statutes are interpreted according to the plain meaning of their words while considering the legislature's intent in choosing those words.²⁶ This means the more plain the language, the more compelling a contradictory legislative history must be to interpret those words differently.²⁷ Accordingly, as Mr. P. acknowledges, "unambiguous statutory language is read according to its ordinary and common meaning."²⁸

In relevant part, the disputed statute reads as follows:

[A]n otherwise eligible individual . . . remains eligible . . . if the individual was absent . . . 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 . . . or (C) 45 days in addition to [a qualifying medical absence] . . .²⁹

In crafting AS 43.23.008(a)(17), the legislature thus set specific time limits on absences from the state for a mix of medical issues and vacation such as Mr. P.' absences. They clearly created eligibility criteria and stated how they could be exceeded. There is no reasonable way to read the statute to make those plain time limits disappear. At hearing, Mr. P. himself was unable to identify such a reading.³⁰ While Mr. P. tries to argue that such an interpretation is possible because his absences are individually each permissible, that is irrelevant when the legislature specifically accounted for circumstances where a PFD applicant had multiple kinds of absences. No case cited by Mr. P. suggests that an agency may simply disregard a constitutional statutory provision.

Instead of providing a potential alternative reading, Mr. P. argues that the statutory time limit is inherently arbitrary and unreasonable—and thus must be ignored—as the legislative history does not show that the time limits were established based on specific factors.³¹ Yet, while a clear and contradictory legislative history can undermine apparently straightforward statutory language, Mr. P. failed to cite any support for his claim that a lack

²⁶ *Alaskans For Efficient Gov't, Inc. v. Knowles*, 91 P.3d 273, 275 (Alaska 2004) ("Rather than rigidly apply a plain meaning rule of statutory interpretation, we favor a 'sliding scale approach' under which 'the plainer the language of the statute, the more convincing contrary legislative history must be.'"); *McLeod v. Parnell*, 286 P.3d 509, 514 (Alaska 2012) ("When interpreting a statute, we look 'to the legislature's intent, with due regard for the meaning the statutory language conveys to others.'"); *Tesoro Alaska Petroleum Co. v. Kenai Pipe Line Co.*, 746 P.2d 896, 905 (Alaska 1987) ("[U]nless words have acquired a peculiar meaning, by virtue of statutory definition or judicial construction, they are to be construed in accordance with their common usage.").

²⁷ *Id.*

²⁸ P.s' Post-hearing Arguments at 1.

²⁹ AS 43.23.008(a).

³⁰ P.s' Testimony.

³¹ P.s' Testimony.

of legislative history makes a law inherently arbitrary and ignorable. While it can certainly be informative when the legislature discusses its reasons for adopting a particular statutory provision, requiring a detailed legislative history to enforce a plainly written statute would be a reversal of the principles of statutory interpretation. A law cannot simply be ignored because the legislature does not explicitly discuss on the record its purpose or how its specifics were determined. To say the least, such a reading would result in the nullification of innumerable small uncontroversial provisions that were not discussed at length.

Despite trying to make an argument based on undermining the statute's plain reading, Mr. P. also did not provide any legislative history to support his preferred interpretation of the historic law.³² Instead, he merely states that he did not find any detailed legislative history regarding the statutory provision at issue and calls out the Division for not providing evidence to justify the reasonableness of the disputed provision.³³ The burden here, however, is on Mr. P.—not the Division—to find evidence supporting his reading.

Moreover, the only citation Mr. P. provides identifying a standard rejecting arbitrary and unreasonable limits on PFD eligibility is a standard for interpreting regulations imposing stricter PFD limitations than those in statute.³⁴ The law at issue here is a statute, not a regulation. While the case on regulatory interpretation that Mr. P. cites discusses similar PFD requirements to those at issue here, it was litigated when the relevant time limits were regulatory and before the legislature adopted the disputed time limits into statute. Accordingly, the standards Mr. P. cites that ensure a regulation's consistency with the underlying statute's purpose are not relevant, as it was the legislature itself that determined the limits he is challenging here were appropriate.³⁵

Mr. P. next points to a recent statutory amendment which allows absences of 180 days in addition to medical absences, rather than 45, and contends that amendment reflects the legislature's recognition that the previous version was arbitrary and unreasonable. He

³² Mr. P.s' legislative history discussion instead focuses on the amended law that does not apply to him. *See* P.s' Post-hearing Arguments at 3.

³³ P.s' Post-hearing Arguments at 3.

³⁴ P.s' Post-hearing Arguments at 2.

³⁵ Furthermore, instead of plainly supporting Mr. P.s' argument, those cases permitted regulations to limit the availability of the PFD similar to the statutes at issue here. *See, e.g., Church v. State, Dep't of Revenue*, 973 P.2d at 1130.

thus claims the amendment supports his argument that the statute applied to him should be interpreted to ignore that limitation.³⁶

While Mr. P. is correct that the statute has now changed, Mr. P.’ situation must be governed by the law in effect at the time. The mere fact that the law has changed does not mean all prior applications of the law are void. Even when the legislature thinks poorly of existing law and decides to change it, that does not absolve an agency of its obligation to follow and implement the law in effect at a given time. Essentially, Mr. P. is arguing that the current legislature believes a past legislature should not have imposed the 45-day limit, and therefore the Department of Revenue should “interpret” that language out of the statute even before the new law takes effect. But he has provided no authority that would allow such an interpretation. The Division’s role is to implement the laws passed by the legislature, not second guess their wisdom.³⁷ Ignoring a statutory limit is not an “interpretation,” it is a failure to implement the law.

IV. Conclusion

While Mr. P. cites various cases on statutory interpretation to argue reason and practicality must govern the process to ensure a statute’s purpose is achieved, none of these cases suggest that an agency may disregard a constitutional statutory provision—even one that is later changed.³⁸ Mr. P. has not demonstrated the disputed statute is unclear or ambiguous or that contrary legislative history exists to compel a different statutory interpretation. Accordingly, neither end of the sliding scale of statutory interpretation bends towards Mr. P.’ position and the plain language is clear on its own. Neither the tribunal nor the Division has the ability to ignore plain statutory requirements and cannot do so here. Because of his extended absences from Alaska, Mr. P. was not eligible for the 2024 PFD. The decision of the Division to deny his application is therefore AFFIRMED.

Dated: October 14, 2025

SIGNED
Garrison A. Todd
Administrative Law Judge

³⁶ P.s’ Post-hearing Arguments at 3 – 4.

³⁷ See, e.g., *In re CP*, OAH 21-2489-PER at 8.

³⁸ P.s’ Brief at 4; P.s’ Post-hearing Arguments at 1 – 2.

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 21st day of November, 2025.

By: SIGNED
Garrison Todd
Administrative Law Judge

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