

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

In the Matter of	)	
	)	
A. J.	)	OAH No. 23-0302-PFD
_____	)	

DECISION

I. Introduction

The Permanent Fund Dividend (“PFD”) Division denied a 2022 PFD for A. J. because she was absent from the state more than 180 days during 2021, the qualifying year. Ms. J. submitted evidence that her absences were meant to be temporary and that one of her absences was extended while she tested positive for COVID. By statute, there are limited reasons and lengths of time a person may be absent from the state and still qualify for a PFD. Ms. J.’s absences exceed these narrow exceptions. Accordingly, the Division’s decision is affirmed.

II. Facts

A. J. has lived in Alaska for many years, receiving a PFD from 2011 through 2021.¹ In 2021 — the qualifying year for a 2022 PFD — Ms. J. left the state for two extended periods. Ms. J. spent 133 days on vacation in the Philippines, from February 20, 2021, through July 3, 2021.² Ms. J. had planned to return from this vacation in May, but was delayed after contracting COVID.³ She then left the state again October 2, 2021, for a temporary work assignment in Minnesota and remained there through the end of the year, adding another 90 days of absence from the state for a total of 223 days for the year.⁴

The Division denied Ms. J.’s 2022 PFD application because she was absent from the state for more than 180 days in 2021 without a valid allowable absence.⁵ Ms. J. submitted utility records, a post office box application, a letter from her employer indicating her work in Minnesota was a temporary assignment, and other documents related to her employment.⁶ The

¹ Ex. 1 at 6.
² Ex. 1 at 5.
³ Ex. 5 at 3.
⁴ Ex. 1 at 5; Ex. 3 at 3-4.
⁵ Ex. 2.
⁶ Ex. 3.

Division affirmed its denial on informal appeal based on the number of days Ms. J. was absent from the state.⁷

Ms. J. appealed, arguing she should be eligible for a PFD because she has maintained her residence in Alaska and attaching documentation regarding her COVID diagnosis while in the Philippines.⁸

III. Discussion

To be eligible for a PFD, a person must be a resident of Alaska for the entire qualifying year.⁹ Additionally, a person generally must be physically present in the state. A person who is absent from the state for more than 180 days is not eligible for a PFD for that qualifying year unless they fall into one of several narrow exceptions, such as for military service or attending college.¹⁰ The Division has no discretion to allow an absence for a reason other than those listed by statute. And even when a person has an allowed absence, there are restrictions on how many additional days a person may be out of state.¹¹

Ms. J. has argued she remained a resident in 2021, submitting evidence showing she intended to remain an Alaska resident and that neither of her absences were intended to be permanent. But the Division did not deny her PFD for lack of residency. It denied her 2022 PFD because of the length of time she was absent from the state in 2021.

By Ms. J.'s own admission, she was absent for a total of 223 days in 2021, well over the 180-day maximum for PFD eligibility. Her purpose for those absences was vacation and temporary work. Neither of those fall within the limited list of allowed absences for being out of state more than 180 days.

An absence to "receiv[e] continuous medical treatment recommended by a licensed physician or convalescing as recommended by a physician who treated the illness" can be an allowed absence.¹² Ms. J. has submitted copies of COVID test results and a doctor's note stating she tested positive May 24 and that at a follow up visit on June 29, Ms. J. had recovered.¹³ This evidence does not demonstrate continuous medical treatment from a doctor or that Ms. J. was

⁷ Ex. 4.

⁸ Ex. 5.

⁹ AS 43.23.005(a)(3).

¹⁰ AS 43.23.008(a).

¹¹ AS 43.23.008(17).

¹² AS 43.23.008(a)(5).

¹³ Ex. 5 at 5-8; June 1, 2023 submission from Ms. J.

convalescing pursuant to a doctor's recommendation. But even if time Ms. J. had COVID qualified as an allowed absence for medical treatment, she could be eligible for a PFD only if her other absences did not exceed 45 days.¹⁴ Ms. J.'s absence for work in Minnesota alone was 90 days. Ms. J. was additionally on vacation for 93 days — from February 20 to May 23 — before she first tested positive for COVID on May 24. These absences far exceed the 45 days Ms. J. could be absent and still qualify for a PFD.

IV. Conclusion

Because of Ms. J.'s extended absences from the state in 2021, the Division correctly denied her 2022 PFD application. The Division's decision is affirmed.

Dated: June 19, 2023

Signed

Danika B. Swanson
Administrative Law Judge

¹⁴ AS 43.23.008(17)(C).

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 13th day of July, 2023.

By: Signed
Lawrence A. Pederson
Administrative Law Judge

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