

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

In the Matter of	)	
	)	
U. B. N.	)	OAH No. 23-0355-PFD
_____	)	

DECISION

I. Introduction

U. B. N. applied for the 2022 Permanent Fund Dividend (PFD). The Permanent Fund Division (Division) denied his application, both initially and at the informal appeal level, on the grounds that he had been absent for the State of Alaska for more than 180 days during 2021, the qualifying year for the 2022 PFD, while not on an allowable absence.

Mr. N. appealed the denial of his application. His formal hearing was held on June 28, 2023. Mr. N. represented himself. Pete Scott represented the Division.

The denial of Mr. N.'s 2022 PFD application is affirmed. While his absence from Alaska for more than 180 days in 2021 was unplanned and understandable, it was not allowable for the purposes of PFD eligibility.

II. Facts

Mr. N. is a lifelong Alaskan who has received a PFD since its inception.¹ His wife, who continues to maintain her Alaska residency, has been living outside of the State of Alaska for a number of years due to her medical condition and medical care needs.² The last time she was found eligible for the PFD was in 2002. Her applications between 2003 and 2008 were denied, and she has not applied for the PFD since 2008.³

Mr. N. was visiting his wife in 2021, when she had an accident, which caused an unplanned extension of his stay so that he could care for her.⁴ Due to that unplanned extension, he spent a total of 183 days outside the State of Alaska in 2021.⁵

¹ Ex. 1, p. 6.
² Mr. N.'s testimony.
³ Ex. 7.
⁴ Mr. N.'s testimony.
⁵ Ex. 1, p. 4.

Mr. N. applied for the 2022 PFD. The Division denied his application because he was absent from the State of Alaska for more than 180 days.⁶ Mr. N. filed an informal appeal, which was denied.⁷

III. Discussion

The applicant bears the burden of proving that the Division wrongly denied a PFD.⁸ To qualify for a PFD, an Alaska resident must not be absent from Alaska for more than 180 days during the qualifying year, unless they qualify for an exception.⁹ 2021 was the qualifying year for the 2022 PFD.¹⁰

The PFD statutes provide for several exceptions to the 180-day maximum absence rule. Because Mr. N.'s absence in 2021 was in part to care for his unexpectedly injured wife, he could potentially qualify an extension to the 180-day maximum absence requirement due to his needing to care for his wife.

The PFD statute subsections that apply in this case are (a)(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," and (a)(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,"¹¹

Because Mr. N.'s absence over 180 days was required to care for his injured wife, he potentially falls under exception (a)(13) which allows an exception for someone caring for a spouse who is receiving continuous medical care or convalescing (exception (a)(5)). However, to qualify for this exception, his wife must be a PFD eligible Alaska resident.¹² While Mr. N.'s wife is still an Alaska resident, she has not lived in Alaska for a number of years, has not applied for the PFD since 2008, and her PFD applications between 2003 – 2008 were denied. Given both her extended absence from the state and her lack of an

⁶ Ex. 2.

⁷ Ex. 4.

⁸ 15 AAC 23.113(b)(1)

⁹ See AS 43.23.005(a)(6); AS 42.23.008(a)(17).

¹⁰ See AS 43.23.295(6).

¹¹ AS 43.23.008(a)(5) and (a)(13).

¹² AS 43.23.008(a)(13).

application¹³, she, despite maintaining her Alaska residency, is not eligible for the 2022 PFD. This in turn causes Mr. N. to not be eligible for the 2022 PFD. Consequently, the denial of his application is affirmed.

IV. Conclusion

Mr. N. was absent from the State of Alaska for more than 180 days in 2021, the qualifying year for the 2022 PFD. Although his extended absence was unexpected and due to his wife's injury, he did not qualify for an exception that would have allowed him to exceed the 180-day limit. Consequently, the denial of his 2022 PFD application is AFFIRMED.

Dated: July 31, 2023

Signed

Lawrence A. Pederson
Administrative Law Judge

¹³ In order to be deemed eligible for the PFD, an individual must first apply for it. *See* AS 43.23.005(a)(1).

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 24th day of August, 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.]