

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

In the Matter of	)	
	)	
D. L.	)	OAH No. 23-0091-PFD
	)	
_____	)	

DECISION

I. Introduction

D. L. applied for a 2022 Permanent Fund Dividend (“PFD”) based on his Alaska residency for qualifying year 2021. The PFD Division denied the application because Mr. L. was absent from the state most of the year to play junior hockey, which is not an allowed absence, and because he initially did not report this absence on his application. On formal appeal, Mr. L.’s mother explained it was her mistake in not initially reporting his absence. Mr. L. acknowledged, however, that his absences from the state disqualified him from a 2022 PFD. Accordingly, the Division’s decision is affirmed.

II. Facts

D. L. grew up in Alaska and consistently received PFDs from 2004 through 2021.¹

In 2021 — the qualifying year for a 2022 PFD — Mr. L. moved to North Carolina to play junior hockey.² While there, he completed high school coursework online through the Anchorage School District.³ In total, Mr. L. spent 258 days outside Alaska in 2021.⁴ When the Division received an application for his 2022 PFD, however, it indicated that Mr. L. had not been absent from the state for more than 90 days.⁵

While the Division was reviewing Mr. L.’s application, his mother, T. L., submitted a limited power of attorney along with supplemental information revealing his extensive absences from the state.⁶

¹ Ex. 1 at 5.
² Ex. 1 at 6; Mr. L. testimony.
³ Ex 3.
⁴ Ex. 1 at 6.
⁵ Ex. 9 at 1.
⁶ Ex. 1 at 6-9.

The Division denied Mr. L.’s 2022 PFD application because he was absent from the state without a valid allowable absence and because he provided false information on his application.⁷ The Division affirmed that decision on informal appeal.⁸

Mr. L. appealed, arguing that he should be considered an Alaska resident for purposes of a PFD because he attended online school through the Anchorage School District while out of state and retained an Alaska Driver’s license.⁹

A hearing was held on March 9, 2023. At the hearing, T. L. explained that she filed the 2022 PFD application for Mr. L. using his online MyAlaska account and that she made a mistake in stating that he had not been absent for more than 90 days.¹⁰ The Division’s representative, Peter Scott, highlighted other portions of the application and Ms. L.’s candor about Mr. L.’s absences during the review process as being consistent with Ms. L. making a mistake here.¹¹ Mr. Scott also explained the correct process for submitting a PFD application on behalf of another adult.¹²

Mr. and Ms. L. acknowledged at the hearing that his absences during the 2021 qualifying year did not make him eligible for a 2022 PFD. Ms. L. explained that they filed this appeal to see if there was any way he could qualify, but did not dispute the Division’s arguments that he did not.¹³ Mr. Scott provided Mr. L. with helpful information about ongoing residency and his potential eligibility for future years.¹⁴

III. Discussion

Generally, a person must physically reside in Alaska to be eligible for a PFD. 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, training and competing as part of the United States Olympics Team, or to attend an out-of-state high school or college.¹⁵ The Division has no discretion to allow an absence for a reason other than those listed by statute.

⁷ Ex. 2.

⁸ Ex. 5.

⁹ Ex. 6 at 2.

¹⁰ Ms. L. testimony.

¹¹ Mr. Scott testimony.

¹² *Id.*

¹³ Ms. L. testimony.

¹⁴ Mr. Scott testimony.

¹⁵ AS 43.23.008(a).

Playing junior hockey does not fall within any of the allowed absences.¹⁶ Nor does living out of state while attending an Alaska school online.¹⁷ And the allowed absence for Olympic athletes is restricted to members of the Olympic team or United States National Team for an Olympic sport, not people playing in other sports leagues or hoping to someday make the Olympic team.¹⁸ Thus, as Mr. and Ms. L. acknowledged at the hearing, Mr. L. did not have an allowed absence in 2021, nor did he spend the requisite number of days in Alaska to qualify for a 2022 PFD.

The Division also raised the issue of fraud. By regulation, “[t]he department will deny an application if the department determines that an individual intentionally, recklessly, or negligently provided false information or omitted facts, including failure to disclose a reportable absence to the department.”¹⁹ Ms. L. did file Mr. L.’s application through his own account rather than the appropriate form for applying on behalf of another adult and she did mark on his application that he had not been absent for more than 90 days. At the hearing, however, the Division accepted Ms. L.’s explanation that she made a mistake, pointed out other portions of the application that are consistent with it being a mistake, acknowledged that Ms. L. was forthright in identifying Mr. L.’s absence dates during the review process, and acknowledged that it is not uncommon for people filing on behalf of an adult applicant not to use the correct form. Because the evidence indicates Ms. L. made a mistake and the Division accepts it as a mere mistake — and because Mr. L. is already ineligible based on his absences from the state — this decision need not address whether Ms. L.’s mistake amounts to a negligent omission for purposes of denying Mr. L.’s application.

IV. Conclusion

For the reasons discussed above, the Division’s decision is affirmed.

DATED: March 10, 2023.

SIGNED
Rebecca Kruse
Administrative Law Judge

¹⁶ *In re M U*, OAH 18-0744-PFD (Commissioner of Revenue 2018) (“Playing junior hockey unfortunately does not fall within one of the 16 categories” of allowed absences).

¹⁷ 15 AAC 23.163(c) (to qualify for an allowed absence based on education, the educational program must be the purpose for being out of state).

¹⁸ AS 43.23.008(a)(15).

¹⁹ 15 AAC 23.103.

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 4th day of April, 2023.

By: SIGNED

Signature

Rebecca Kruse

Name

Administrative Law Judge

Title

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