

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

In the Matter of	)	
	)	
B. T. W.	)	OAH No. 23-0162-PFD
	)	
<u>2021 and 2022 Permanent Fund Dividends</u>	)	

DECISION

I. Introduction

B. W. is a permanent United States resident with an expired permanent resident card. The Permanent Fund Dividend Division rejected this as proof of her immigrant status for purposes of receiving a 2021 or 2022 Permanent Fund Dividend (“PFD”). Ms. W. has since provided a “receipt notice” from renewing her card which, along with the expired card, is sufficient documentation for purposes of employment or reentering the country. It should similarly be sufficient for PFD purposes. The Division’s decisions denying Ms. W.’s 2021 and 2022 PFDs are reversed.

II. Facts

B. W. has been a permanent resident of the United States since May 12, 2009.¹ It appears she received a PFD most recently in 2020.² Ms. W. applied for PFDs in 2021 and 2022 but was denied because her permanent resident card had expired, and the Division did not accept the card as verification of her immigration status.³

Ms. W. appealed, requesting a hearing by correspondence. With her appeal, Ms. W. submitted a January 26, 2023 receipt notice from the United States Citizenship and Immigration Services (“USCIS”) of an I-90 application to renew her permanent resident card.⁴

III. Discussion

To qualify for a PFD, a person must be a United States citizen or a non-citizen with permanent resident, refugee, or asylee status.⁵ The Division will consider a person a permanent

¹ Ex. 2 at 3.

² Ex. 1 at 1 (2021 application stating receipt of a 2020 PFD). The Division did not provide documentation of Ms. W.’s full PFD history so eligibility for prior years is unknown.

³ Ex. 3, 7, 10, 11.

⁴ Ex. 12 at 4.

⁵ AS 43.23.005(a)(5).

resident for PFD purposes if the person provides “verification” of an immigration status that permits domiciling in the United States, including status as an immigrant verified by the USCIS.⁶

The Division rejected Ms. W.’s permanent resident card as verification of her immigration status because the card expired June 17, 2019. In its position statement, the Division characterized this as showing “she was last on an allowable immigration status in 2019.” This conclusion confuses permanent immigrant status with status of a person’s permanent resident *card*.

Permanent resident status is what the name indicates — permanent. A permanent resident can abandon their status, such as by moving to a foreign country, and in very limited circumstances can have it revoked, such as for committing immigration fraud or following conviction for certain crimes.⁷ But otherwise a permanent resident remains a United States resident for life.

A permanent resident’s *card*, on the other hand, is not permanent. Since 1989, permanent resident cards have carried a ten-year expiration date. But that expiration applies only to the card itself, not the person’s immigration status.⁸ A permanent resident continues to hold permanent resident status with an expired card. Thus, it was not legally accurate for the Division to conclude Ms. W. ceased having an “allowable immigration status” in 2019 when her card expired.

This issue here is one of documentation, not immigration status. PFD regulations do not define what type of documents provide “verification” of immigrant status. Two of the strictest scenarios for documentation by federal agencies are new employment and reentry to the country. It would stand to reason that the type of documentation sufficient for federal agencies in these situations should also be sufficient for the Division for PFD purposes. An expired permanent resident card is inadequate documentation for obtaining employment or reentry to the United

⁶ 15 AAC 23.154(a). “Immigrant” is a very broad term including all non-citizens other than a specific list of mostly temporary reasons for being in the country, such as on a travel, student, or guest worker visa. 8 U.S.C. § 1101(a)(15).

⁷ 8 U.S.C. § 1227; USCIS “Maintaining Permanent Residence” available at <https://www.uscis.gov/green-card/after-we-grant-your-green-card/maintaining-permanent-residence#:~:text=You%20will%20lose%20your%20permanent,removed%20from%20the%20United%20States.>

⁸ Austin T. Fragomen, Jr., Careen Shannon, Daniel Montalvo, Immigration Procedures Handbook § 21:9 (“The expiration date has no bearing on the individual’s continued permanent residence, but rather only affects the validity of the card.”); Sarah B. Ignatius, Elisabeth S. Stickney, Immigration Law & Family § 3:22 (“[O]nly the card expires. The lawful permanent resident’s actual status remains unaffected.”).

States, even though a person has the legal right to work and travel.⁹ When Ms. W. initially submitted only her expired card as proof of immigration status, the Division found it inadequate documentation. But Ms. W. has since provided a receipt notice for a pending card renewal.¹⁰ The USCIS issued a notice on September 28, 2022, that permanent resident cards with a pending renewal application (Form I-90) are automatically extended for 24 months and that an expired permanent resident card accompanied by a Form I-90 receipt notice is evidence of continued immigration status.¹¹ Ms. W.'s receipt notice includes similar language.¹² If Ms. W. was starting a new job or attempting to reenter the United States, this receipt notice and her expired permanent resident card would be sufficient proof of immigration status. It should similarly be sufficient verification of immigration status for a PFD. The fact that Ms. W. did not seek to renew her card until January 2023, well after the 2020 and 2021 qualifying years, does not diminish the adequacy of this documentation. By providing the receipt notice, the USCIS has verified that Ms. W. has not had her permanent residence status revoked. Proof of continued permanent residence status as of January 2023 is proof of the same status in 2020 and 2021.

IV. Conclusion

A permanent resident remains a permanent resident, even when their card expires. By submitting a recent receipt notice for renewing her card, Ms. W. has provided the type of documentation that would be sufficient for starting a new job or reentering the country. This documentation should be sufficient proof of immigrant status for PFD purposes as well. Accordingly, the Division's decisions denying her 2021 and 2022 PFDs are reversed.

DATED: May 2, 2023

SIGNED
Rebecca Kruse
Administrative Law Judge

⁹ *Id.*

¹⁰ Ex. 12 at 4.

¹¹ <https://www.uscis.gov/newsroom/alerts/uscis-extends-green-card-validity-extension-to-24-months-for-green-card-renewals>

¹² Ex. 12 at 4.

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 26th day of May, 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.]