

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

In the Matter of	)	
	)	
N. & O. S.	)	OAH No. 23-0172-PFD
	)	

DECISION

I. Introduction

The Permanent Fund Dividend Division denied 2022 Permanent Fund Dividends (“PFDs”) for N. and O. S. because they moved to Texas in the summer of 2021, the qualifying year for 2022 PFDs. The S.es have admitted they were not Alaska residents during the entirety of 2021 and did not offer evidence showing they were Alaska residents the entire year. Accordingly, the S.es are ineligible for 2022 PFDs and the Division’s decisions are affirmed.

II. Facts

Married couple N. and O. S. moved to Alaska in 2013 and began receiving PFDs in 2015.¹ On their 2022 PFD applications, Mr. S. revealed that he had been absent from the state since July 21, 2021 because he had “moved/to find work in Texas” and Ms. S. had been absent since August 27, 2021 because she had “moved/looking for work.”² When asked on their applications whether they had maintained their principal home or stored the majority of their belongings in Alaska continuously since December 31, 2020, they both answered “no.”³ Similarly, both answered “no” when asked whether they intend to return to Alaska to remain indefinitely.⁴ Both listed a Texas address as their mailing and physical address.⁵

The Division denied their applications because they were no longer Alaska residents.⁶ On informal appeal requests, both S.es argued it was unfair to deny their PFDs because they had only lived in Alaska part of the year and noted that one of the reasons they

¹ Ex. 1 at 4, 12.

² Ex. 1 at 5, 11.

³ Ex. 1 at 3, 9; Position Statement at 3.

⁴ Ex. 1 at 3, 9; Position Statement at 3-4.

⁵ Ex. 1 at 1, 7.

⁶ Ex. 2.

moved out of state was for Ms. S.'s health.⁷ The S.es submitted medical records for Ms. S. from Alaska in August 2021, from an urgent care visit for Covid in Texas in January 2022 and a cell phone bill, addressed to Ms. S. in Texas, from October 2022.⁸ The Division again found the S.es were not Alaska residents for all of 2021 and therefore ineligible for 2022 PFDs.⁹

The S.es both appealed, stating that they sold their home in Alaska and moved out of state to seek medical advice and treatment for Ms. S.¹⁰ They attached a letter from a doctor in Texas, but it is addressed to "previous orthopedic office" and merely states that "Patient O. S. has been in our care at our practice since June 2022, we will be providing patient's medical records soon."¹¹

III. Discussion

A person must be a resident for the entirety of a year to be eligible for a PFD in the following year.¹² Generally, a person must be physically present in Alaska during the qualifying year as well. A person may spend up to 180 days outside the state in a given year, provided that absence is not inconsistent with an intent to remain an Alaska resident.¹³ Thus if a person moves and takes up residency in another state on December 31 of a year, the person could not qualify for a PFD because even though they spent only one day outside Alaska, that one day is inconsistent with an intent to remain an Alaska resident.

The S.es admit they moved to Texas during the summer of 2021 and were living in Texas when they applied for 2022 PFDs. They sold their house in Alaska in 2021. They both admitted that they did not maintain belongings or a principal residence in Alaska the entirety of 2021. And both admitted that they did not have an intent to return to Alaska at the time of their 2022 PFD applications. On appeal, the S.es indicated a hope to return to Alaska someday, but a someday hope is not a present intent. To be considered Alaska residents for the entirety of 2021, the S.es needed to have had an intent to remain Alaska residents that entire year. They did not.

⁷ Ex. 3.

⁸ Ex. 4.

⁹ Ex. 5.

¹⁰ Ex. 6 at 2, 4-5.

¹¹ Ex. 6 at 6.

¹² AS 43.23.005(a)(3).

¹³ AS 43.23.008(a)(17)(A).

The S.es' reason for moving to Texas is irrelevant. Medical need can support a temporary absence from the state, but a person must provide certain proof of medical treatment and remain an Alaska resident while seeking that treatment.¹⁴ The S.es neither have that intent nor provided the type of documentation necessary to support a medical absence for PFD-purposes.

The S.es moved away from Alaska during 2021. They were physically absent from the state for the last several months of the year, had a principal residence in Texas, and had no intent to remain Alaska residents during those months. They are thus ineligible for 2022 PFDs.

IV. Conclusion

Because the S.es were not Alaska residents for all of 2021, they do not qualify for 2022 PFDs. The Division's decisions are affirmed.

DATED: May 2, 2023.

SIGNED
Rebecca Kruse
Administrative Law Judge

¹⁴ AS 43.23.008(a)(5), (17).

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.]