

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

In the Matter of	)	
	)	
N. & W. L. AND X. L. (MINOR)	)	OAH No. 25-3442-PFD
_____	)	

DECISION

I. Introduction

N. & W. L. AND X. L. (minor) (collectively, the L. Family) applied for 2025 Permanent Fund Dividends (PFDs).¹ The Permanent Fund Dividend Division (Division) denied their applications after determining that each member of the L. Family did not meet the definition of Alaska state resident at all times during the 2024 qualifying year because they were not United States citizens, aliens lawfully admitted for permanent residence, aliens with refugee status, or aliens with asylee status prior to January 1, 2024.² The Division upheld its determination during the informal appeal process, and the L. Family requested a formal hearing.³

A hearing was held on January 21, 2026. N. L. appeared telephonically, represented the L. Family and testified on their behalf. The Division was represented by PFD Specialist Peter Scott, and he testified on the Division's behalf. Because the L. Family did not meet the definition of Alaska state resident at all times during the 2024 qualifying year, the Division's decision to deny the L. Family's 2025 PFD is AFFIRMED.

II. Facts

The L. Family timely filed 2025 PFD web applications for each family member. In response to the United States citizenship question they responded that they were not United States citizens and that their immigration status was "resident."⁴

The L. Family are Country A nationals and hold passports issued by the Country A.⁵ They reported that their Alaska residency began on 00/00/2022, the date they entered the

¹ Div. Ex. 1.
² Div. Ex. 2.
³ Div. Ex. 5; Div. Ex. 6.
⁴ Div. Ex. 1, pp. 1, 6, 11.
⁵ Div. Ex. 6, pp. 6, 7, 8.

United States at Anchorage, Alaska.⁶ A. L. entered the country on an F-1 student visa, and N. L. and X. L. entered on F-2 visas as accompanying family members.⁷ Their I-94 Arrival/Departure Records specified an “admit until date” of D/S signifying during the duration of their visa status.⁸ The L. Family filed applications for asylum on November 23, 2022.⁹ They were granted asylee status on February 5, 2025.¹⁰

Following its initial review, the Division denied the L. Family’s 2025 PFD applications because none of the family members were United States citizens, aliens lawfully admitted for permanent residence, aliens with refugee status, or aliens with asylee status prior to January 1, 2024.¹¹

The L. Family filed an informal appeal asserting that the Division incorrectly applied the federal definition of “lawful permanent resident” rather than the State of Alaska definition.¹² The Division maintained its denial, explaining that the L. Family did not meet the state definition of 15 AAC 23.154(a)(2), and that the provision cited by the L. Family did not support their claim of eligibility.

The Division specifically determined that, under the terms of their F-1 and F-2 visa statuses, the L. Family was required to declare they have a residence in a foreign country that they had no intent of abandoning. As a result, they did not qualify as lawful permanent residents under 15 AAC 23.154(a)(2), which provides:

- (2) status as a nonimmigrant within the meaning of 8 U.S.C. 1101(a)(15), as verified by the USCIS, if the status does not require the alien to declare that the alien has a residence in a country other than the United States.

The Division further maintained that the L. Family was not granted asylum prior to January 1, 2024, and that they did not meet the definition of Alaska state residents for the 2024 qualifying year.¹³

⁶ Div. Ex. 1, pp. 3, 8, 11.

⁷ Div. Ex. 11, pp. 2, 5; Div. Ex 6, p. 15.

⁸ Div. Ex. 6, pp. 9, 10, 11; *see also* 8 C.F.R §214.2(f)(5)(i) (F-1 Visas).

⁹ Div. Ex. 6, pp. 4, 12; *see also* testimony of N. L..

¹⁰ Div. Ex. 8, pp. 7-12; *see also* testimony of N. L..

¹¹ Div. Ex. 2, pp. 1-4.

¹² Div. Ex. 3.

¹³ Div. Ex. 5, pp 1-3, 7-9, 13-15.

The L. Family requested a formal hearing before the Office of Administrative Hearings (OAH), which was held telephonically on January 21, 2026. Testimony was received from N. L. and Peter Scott, and Division exhibits 1-11 were admitted into evidence. The record closed at the conclusion of the hearing.

III. Discussion

The issue presented is whether the L. Family’s filing of asylum applications permitted them, as a matter of law, to form the intent to reside in Alaska indefinitely during the 2024 qualifying year, despite their admission to and continued presence in the United States under F-1 and F-2 nonimmigrant visa classifications that required them to affirm an intent not to abandon a foreign residence.

Under Alaska law, eligibility for a PFD requires an individual to be an Alaska resident, defined as a person who is physically present in the state with the intent to remain indefinitely, as set forth in AS 01.10.055.¹⁴ This intent requirement is fundamental to the PFD program’s purpose of limiting payments to permanent residents of the state.¹⁵

Alaska PFD regulations specifically address eligibility for aliens.¹⁶ An alien may qualify for a PFD only if the individual is lawfully admitted for permanent residence, granted refugee status, or granted asylee status prior to January 1 of the qualifying year.¹⁷ With respect to asylum status, the regulatory language makes clear that asylum must be granted prior to January 1 of the qualifying year; merely applying for asylum before that date does not confer eligibility.¹⁸ Accordingly, on its face, the filing of an asylum application does not qualify an alien for PFD eligibility.

This brings us to the question of intent. The Alaska Supreme Court has held that PFD eligibility requires an alien not only to be legally present in Alaska, but also to be legally capable of forming the intent to remain in Alaska indefinitely.¹⁹ In assessing that capability, the Court emphasized that a relevant consideration is “any restriction placed on [the alien] by virtue of their immigration status.”²⁰

¹⁴ Alaska Statute 43.23.295(7).

¹⁵ *State, Dep’t of Revenue, Permanent Fund Div. v. Cosio*, 858 P.2d 621, 625 (Alaska 1993).

¹⁶ 15 AAC 23.154.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *State, Dep’t of Revenue v. Andrade*, 23 P.3d 58, 72 (Alaska 2001).

²⁰ *Id.* at 74.

The L. Family entered the United States under F1 and F-2 nonimmigrant visas. These visa classifications restrict an alien's legal ability to form the intent to remain indefinitely because the issuance of these visas require the alien to declare that they have a residence in a foreign country, which they do not intend to abandon.²¹ As a result, while holding F-1 and F-2 status, the L. Family could not legally form the intent necessary to establish Alaska residency under AS 01.011.055.²²

The remaining question is whether the L. Family's ability to form the requisite intent changed upon the filing of their asylum applications on November 23, 2022. In *Andrade*, the Alaska Supreme Court specifically noted that some class members had pending asylum applications, yet did not automatically qualify for PFDs based solely on those applications.²³ Further persuasive authority comes from the federal immigration guidance clarifying that the filing of an asylum application does not suspend or automatically alter the alien's nonimmigrant status.²⁴ An alien remains in the status reflected on the I-94 or other authorization and must continue to comply with the limitations of that status unless and until asylum is granted or a change of status is approved.²⁵ While an alien may seek a change in nonimmigrant status while their asylum application is pending, nonimmigrants who apply for asylum otherwise retain their existing lawful status until asylum is granted or denied.²⁶

The L. Family did not change their nonimmigrant status at any time after filing their asylum applications. Accordingly, during the 2024 qualifying year, they remained subject to the intent restrictions inherent in their F-1 and F-2 visa classifications.

An asylum application does not a guarantee lawful permanent residence and does not, by itself, alter an alien's legal ability to form the intent to remain indefinitely.²⁷ Because the L. Family could not legally form the requisite during the 2024 qualifying year,

²¹ Immigration and Nationality Act § 101(a)(15)(F)(i); 8 C.F.R. 214.2(f).

²² See also, *In re NC*, OAH Case No. 12-0085-PFD, pp. 3-4 (Commissioner of Revenue 2012) (alien holding similarly restrictive expired H2B visa who applied for asylum could not form requisite intent).

²³ *State, Dep't of Revenue v. Andrade*, 23 P.3d at 62-63.

²⁴ 9 Immigration Law Services 2d PSD 1994 General Counsel Opinion 94-39 issued November 29, 1994.

²⁵ *Id.*

²⁶ *Id.*

²⁷ Had the L. Family's asylum applications been denied during the 2024 qualifying year, they nonetheless would have remained in Alaska lawfully under their F-1 and F-2 visas statuses, but they would not have been eligible for the 2025 PFD because those statuses precluded them from legally forming the intent to remain in Alaska indefinitely.

they have not met their burden of proving eligibility for the 2025 PFD. The Division's decision is therefore affirmed.

IV. Conclusion

The L. Family has not met its burden of proving eligibility for the 2025 Permanent Fund Dividend. During the 2024 qualifying year, the family did not meet the definition of Alaska state resident because none of the family members were United States citizens, aliens lawfully admitted for permanent residence, aliens granted refugee status, or aliens granted asylee status. Accordingly, the Division's denial of the L. Family's 2025 PFD applications is affirmed.

Dated: February 9, 2026

SIGNED
Beth Goldstein
Administrative Law Judge

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 6th day of March, 2026.

By: SIGNED

Signature

Janelle L. Earls

Name

Acting Commissioner

Title

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