

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

In the Matter of	)	
	)	
L.U	)	OAH No. 25-0884-PFD
	)	
2024 Permanent Fund Dividend	)	

DECISION

I. Introduction

L.U applied for a 2024 Permanent Fund Dividend (“PFD”) based on his Alaska residency for qualifying year 2023. The PFD Division denied the application because Mr. U was absent from the state most of the year for various academic pursuits, one of which the Division found not to be an allowed absence for purposes of PFD eligibility. Mr. U was late in filing his appeal, but provided evidence supporting a deadline waiver. He also provided evidence that, coupled with statutory language, legislative history, and prior application of the statute, supports finding allowed absences for all but 39 days of Mr. U’s absences. That length of absence is permitted and therefore the Division’s decision is reversed.

II. Background

L.U is a lifelong Alaskan who has been receiving PFDs continuously since 2003.¹ In 2023, Mr. U interned for United States Representative Mary Peltola in D.C. for 100 days, from January 19 through April 28, interned at the National Educational Program A for 67 days, from June 20 through August 25, attended University A for 108 days, from August 30 through December 15, and spent 51 days in Alaska.² That leaves 39 days when Mr. U was not in Alaska, attending school, or interning.³ Mr. U has since graduated from University A and returned to City A to work as a legislative aide for a State Representative.⁴

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 allowed absences.⁵ These include three related to

¹ Ex. 1 at 4.

² Ex. 3-4; DOR July 10, 2025 Supplemental Briefing, Revised Addendum.

³ *Id.*

⁴ L.U testimony.

⁵ AS 43.23.008(a).

education: (1) attending secondary or postsecondary school full time; (2) receiving vocational, professional, or other specific education unavailable in state, as determined by the Alaska Commissioner on Postsecondary Education (“ACPE”); and (3) participating in a student fellowship sponsored by the Departments of State or Education.⁶ Serving as staff for an Alaska Senator or Congressperson is also an allowed absence.⁷ When an applicant is allowably absent as a Congressional staffer, however, the applicant may only spend 45 days outside Alaska that do not qualify for one of the specific allowed absences.⁸

The Division considered Mr. U’s Congressional internship and university attendance to be allowed absences, but not his National Educational Program A internship. Because that 67-day internship exceeded the 45-day cap on unallowed absences, the Division denied his PFD application.⁹

Mr. U submitted an informal appeal, arguing that his internship should be considered an allowed absence for vocational, professional, or other specific education unavailable in Alaska, as determined by the ACPE.¹⁰ The Division affirmed its application denial, in part for lack of documentation concerning the internship.¹¹

Mr. U requested this formal appeal, again arguing that his National Educational Program A internship should be considered an allowed absence for education unavailable in Alaska.¹² That appeal was due January 6, 2025.¹³ The Division did not receive the appeal until March 21, 2025.¹⁴

A hearing was held on May 21, 2025. At the hearing, the parties addressed the timeliness of Mr. U’s appeal and whether his National Educational Program A internship is an allowable absence as education unavailable in Alaska, but also addressed a new argument that the internship is an allowable absence as a fellowship sponsored by the Department of Education or State. The ALJ left the record open for post-hearing submissions by the parties.

Following the hearing, Mr. U submitted a May 28, 2025 determination by the ACPE that his National Educational Program A internship was not an education program unavailable in Alaska for purposes of

⁶ AS 43.23.008(a)(1), (2), (16).

⁷ AS 43.23.008(a)(10).

⁸ AS 43.23.008(17)(C). This 45-day limit applies to many, but not all, of the allowed absences.

⁹ Ex. 2.

¹⁰ Ex. 5 at 3.

- ¹¹ Ex. 6 at 2.
- ¹² Ex. 8 at 2.
- ¹³ *Id.* at 1.
- ¹⁴ *Id.* at 2.

PFD eligibility because it did not meet certain regulatory requirements.¹⁵ In his post-hearing submission, Mr. U conceded that this determination precluded his internship from qualifying for that allowed absence, but argued that it should instead be considered a fellowship sponsored by the Department of State or Education.

In its position statement and at the hearing, the Division elected not to take a position on whether this appeal should be rejected as untimely, stating that it deferred to the ALJ on the issue.¹⁶

The Division's post-hearing submission raised some questions about the number of days Mr. U was absent from Alaska outside of internships and schooling. The hearing had, quite understandably, focused primarily on the nature of Mr. U's National Educational Program A internship. To ensure the parties had an opportunity to address the number of absent days, the ALJ allowed both parties to submit additional briefing. Mr. U submitted credit card statements that he had not previously provided to the Division, showing additional days in Alaska. The Division adjusted its calculations based on this new evidence and provided a helpful revised "addendum" charting Mr. U's whereabouts in 2023.

III. Discussion

A. Mr. U's Formal Appeal Was Untimely, but the Untimeliness is Waived.

Formal appeals of PFD decisions are due within 30 days.¹⁷ But if the due date falls on a weekend or holiday, the appeal is not due until the next working day.¹⁸ Mr. U's appeal of the Division's December 6, 2024 informal appeal was thus due January 6, 2025, as noted on the appeal form the Division provided.¹⁹ Mr. U does not dispute that his March 21, 2025 appeal was untimely.

¹⁵ May 28, 2025 ACPE letter. It is worth noting that ACPE's finding is not based on the language of AS 43.23.008(a)(2), which broadly allows absences for educational programs unavailable in Alaska. As Division Representative Peter Scott explained at the hearing, a 2016 change to PFD regulation 15 AAC 23.163(c)(2) limited this allowed absence to education programs eligible for ACPE financial aid programs. Eligibility is defined in ACPE regulations, resulting in a severe narrowing of the programs that can fall under AS 43.23.008(a)(2). ACPE's finding here was based on the ACPE regulatory requirements for financial aid eligibility. Whether that is consistent with the statute is beyond the scope of this appeal.

¹⁶ Position Statement at 5; Peter Scott statements at hearing.

¹⁷ 15 AAC 05.010(b)(5).

¹⁸ 15 AAC 05.010(c).

¹⁹ Ex. 6; Ex. 8 at 1.

The appeal deadline does not apply if the applicant “demonstrates a reasonable cause” for failure to timely appeal or if the Administrative Law Judge waives the deadline to avoid “an injustice.”²⁰

“In general, waivers have been available where the conduct of the division caused confusion that contributed to delay in starting an appeal, and even then the amount of extra time granted has not been unlimited.”²¹ For example, an applicant who mistakenly believed he already had an appeal pending because of confusing Division paperwork was found to be reasonable cause for a two-and-a half month delay in appealing.²² Similarly, reasonable cause was found in several cases where the Division’s notice of appeal rights included misleading language.²³ Reasonable cause was also found in a case where the Division had reversed itself twice, creating confusion about whether the applicant needed to appeal.²⁴ But even where the Division’s errors create confusion, that has been found to excuse “a week or two” delay, but not a failure to appeal for a year.²⁵

Reasonable cause has been found lacking where an applicant did not notice a denial letter,²⁶ failed to update their mailing address with the Division and therefore did not receive the denial decision,²⁷ offered no explanation for missing the appeal deadline,²⁸ did not support an explanation with evidence that they were prevented from appealing,²⁹ or merely stated that they were busy.³⁰

During the period from December 6 through January 6, Mr. U states that he was job hunting and that it was stressful and time consuming.³¹ Applying for jobs is certainly unpleasant

²⁰ 15 AAC 05.010(b)(5); 15 AAC 05.030(k).

²¹ *In re VD*, OAH No. 14-0943-PFD at 4 (2014).

²² *In re H.*, Caseload No. 040315 (2004).

²³ *In re HBS*, OAH No. 20-0843-PFD (2021); *In re D Q-E*, OAH No. 20-0254-PFD (2020); *In re LP*, OAH No. 20-0350-PFD (2020).

²⁴ *In re S.*, Caseload No. 040154 (2004).

²⁵ *In re B.*, Caseload No. 040286 (2004).

²⁶ *In re S.Z.*, OAH No. 05-0281-PFD (2005).

²⁷ *In re JZ*, OAH No. 16-0057-PFD (2016); *In re SNT*, OAH No. 14-1851-PFD (2014); *In re VD*, OAH No. 14-0943-PFD (2014); *In re G.*, Caseload No. 030739 (2004).

²⁸ *In re C.D.M.*, OAH No. 05-0412-PFD (2005).

²⁹ *In re FP*, OAH No. 22-0783-PFD (2022) (applicant with traumatic brain injury, but who did not provide evidence of a disability preventing her appealing, did not show reasonable cause for appealing 53 days after deadline).

³⁰ *In re KT*, OAH No. 18-0865-PFD (2018) (five-month delay not excused for applicant who did not appeal because she thought it would not be productive, because she was preparing for a trip, and because it “was winter”); *In re N.*, OAH No. 05-0595-PFD (2006) (six-month delay not excused for military member who was in busy preparation and training period before deploying to Iraq).

³¹ Ex. 8 at 3.

and onerous, but it is a regular part of life. It does not justify a failure to meet an appeal deadline, nor would it be an injustice not to waive an appeal deadline for this reason.

Mr. U also provided evidence that from November until the end of January, he lost access to medication for a diagnosed medical condition and recognized disability, making it difficult for him to timely complete paperwork.³² The Division took no position on whether the ALJ should grant a waiver. This is a close call. Not all medical conditions or disabilities, medicated or not, justify missing an appeal deadline by several months. In light of the specific evidence here and the Division's lack of a position, the ALJ finds that waiving the appeal deadline will avoid an injustice. This finding is specific to the circumstances of this appeal and not to medical conditions, disabilities, or lack of medication in general.

B. Mr. U's National Educational Program A Internship Was a Student Fellowship Sponsored by the Departments of State and Education.

At the hearing and in his post-hearing submission, Mr. U argued that his National Educational Program A internship should qualify as an allowed absence for "participating for educational purposes in a student fellowship sponsored by the United States Department of Education or by the United States Department of State."³³ The Division responded at the hearing that this allowed absence may apply, but that it had not had an opportunity to fully explore it.

Congress created the National Educational Program A to "symboliz[e] and strengthen[] the fruitful relation between the world of learning and world of public affairs."³⁴ Its Board includes numerous cabinet members, including the Secretaries of State and Education.³⁵ Mr. U interned with the Center's Polar Institute, focusing on Arctic and Antarctic policy issues.³⁶ Mr. U explained that he learned concepts about natural resources and Native cultures during his internship that have informed his work as an Alaska legislative aide.³⁷ Although called an "internship," Mr. U's role has all the academic indicia of an educational fellowship. The internship was tied to his degree program at University A and was available to undergraduate and graduate students.³⁸ He spent

³² Ex. 8 at 3; L.U testimony. As the Division pointed out, Mr. U indicated in his formal appeal that he resumed medication mid-December. At the hearing, however, Mr. U clarified that he was not able to refill his prescription until January 30, 2025.

³³ AS 43.23.008(a)(16).

³⁴ 20 U.S.C. § 80e(3).

³⁵ 20 U.S.C. § 80f.

³⁶ L.U testimony.

³⁷ L.U testimony.

³⁸ *Id.*; Ex. 4 at 1.

his time reviewing and writing research papers, including a paper on fisheries management.³⁹ Mr. U also worked on a symposium and accompanying papers on critical mineral policies in the Arctic, in conjunction with the University of Alaska, the Department of Energy, and the RAND Corporation.⁴⁰ Based on the National Educational Program A’s purpose and Mr. U’s role there, his internship falls within the purview of a “student fellowship” for “educational purposes.”

To be an allowed absence, though, this student fellowship would need to also need to be “sponsored” the Departments of Education or State. Sponsorship by either of these Departments need not be direct. For example, a Fulbright fellowship was found to be an educational program sponsored by State even though it was administered by a foreign non-governmental organization.⁴¹ When adding student fellowships to the PFD allowed absences statute, the bill’s sponsor, Representative Mike Hawker, testified that the legislature had intended the allowed absences for educational pursuits to be broad. Those categories had since been considerably narrowed by regulation to the point of excluding Fulbright fellowships.⁴² He was generally opposed to broadening PFD allowances, but felt the bill was necessary to clarify the intent behind existing educational allowed absences and to “truly respect Alaska’s best and brightest students.”⁴³ Representative Hawker further explained that while the Fulbright program was the impetus for the bill, the bill’s language was intentionally broad to capture any program sponsored by the Departments of State or Education.⁴⁴ During a hearing, Representative Kyle Johansen commented that “one of our big problems in this state is brain drain, smart kids or adults leaving, and whatever we can do to make it better for them to come back, I would support.”⁴⁵

From the legislative history and prior application of the student fellowship provision, it is evident that the “sponsor[ship]” requirement was intended to apply broadly. This provision was intended to avoid exclusion of the Fulbright program, which is administered by other entities, yet still considered sponsored by the State Department. And the provision’s language was purposely written to apply more broadly than the Fulbright program. Here, the National Educational Program A was created

³⁹ L.U testimony.

⁴⁰ *Id.*; [Link to National Education Program A critical minerals website.

⁴¹ *In re BL*, OAH No. 15-0946-PFD at 1 (Commissioner Revenue 2015).

⁴² House State Affairs Hearing on H.B. 287, 25th Leg. (Jan. 24, 2008).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

and is funded by Congress. The Secretaries of State and Defense are required by statute to sit on the Center's Board, providing oversight and guidance to the Center, which would include its student internship programs. National Educational Program A student internships are the type of prestigious academic learning opportunities that the student fellowship provision was designed to include, to encourage the state's best and brightest to bring those lessons back to Alaska. Considering the statutory language, legislative intent, past application of the student fellowship provision, the role the State and Education Secretaries play with the National Educational Program A, and Mr. U's particular experience there, this specific internship falls within the purview of an allowed absence for an academic student fellowship sponsored by the Departments of State or Education.

C. Mr. U's Other Absences from the State Do Not Exceed the 45-day Limit.

When a person claims an allowed absence for serving as staff to a member of the Alaska Congressional delegation, the person may spend only 45 additional days outside the state during the qualifying year to remain eligible.⁴⁶ Mr. U spent 314 days outside of Alaska in 2023. This includes 100 days interning with Representative Peltola, 67 days interning with the National Educational Program A, and 108 days attending University A. That leaves 39 additional days. Those 39 days are within the 45-day limit.

IV. Conclusion

For the foregoing reasons, the Division's decision to deny Mr. U's 2024 PFD is reversed.

Dated: September 10, 2025

Signed

Danika B. Swanson
Administrative Law Judge

⁴⁶ AS 43.23.008(a)(17)(C).

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 28th day of October, 2025.

By: *Signed* _____
Pamela Leary
Director, Treasury Division
Department of Revenue

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