

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

In the Matter of)

D.Q.W)

OAH No. 25-2057-PFD

DECISION

I. Introduction

Mr. W appeals the denial of his 2024 Permanent Fund Dividend application. A hearing in this matter was held on the written record.¹ The Division initially denied Mr. W's application for insufficient proof of his being in Alaska for 72 hours during the qualifying period. Mr. W asked how he could provide such proof. The Division told Mr. W several ways to show his presence in Alaska but did not tell him he could submit an affidavit from adult Alaskans testifying to his presence in Alaska. Because the Division did not give him complete information the denial is REMANDED for the limited purpose of Mr. W having 30 days to supply such an affidavit.

II. Background

Mr. W applied online for his 2024 PFD on February 25, 2024.² Mr. W indicated he was not in Alaska on the date of the application, that he intended to return to Alaska, and that he departed Alaska on September 15, 2023 and intended to return on June 15, 2025.³ He indicated he as attending college at University A.⁴ He listed an Alaska address on Address A.⁵ As his two verifiers he listed K and N.W with the same address on Address A.⁶

On December 6, 2024, the Division sent Mr. W a "Notice of Denial," telling him, "The 2024 PFD Application for D.Q.W is Denied."⁷ As relevant to this appeal, the Division based on the denial on Mr. W not providing adequate proof that he was in Alaska at least 72 consecutive hours during 2022-2023.⁸

¹ 2 AAC 64.260(a)(2) ("An administrative law judge may order that an administrative hearing be conducted through one of more of the following methods, unless another method is prescribed by law ... on the written record and briefs or other correspondence, with or without oral argument[.]")

² Exhibit 1 at 1.

³ *Id.* at 4.

⁴ *Id.* at 3.

⁵ *Id.* at 1.

⁶ *Id.*

⁷ Exhibit 2 at 1.

⁸ Exhibit 2 at 1. The exhibit, a "Notice of Denial," states, "On May 10, 2024 a request was made asking for poof D was physically present in Alaska for at least 72 consecutive hours during 2022-2023." The record does not include the May 10, 2024 communication from the Division. It is not material to the resolution of this matter.

Mr. W submitted a “Request for Informal Appeal” on December 19, 2024.⁹ This request asked, “Is there anything stated in the denial letter that is incorrect[,]” with a box to check for yes or no.¹⁰ Mr. W left this blank.¹¹ Mr. W attached an additional page stating he was enrolled in college, that he had submitted proof of his enrollment, and asking, “Please let me know what else I can do to verify my Alaska residency from 2022-23.”¹²

On March 20, 2025, the Division reached out to Mr. W by email.¹³ The Division’s representative told Mr. W, “I need more documentation from you. When an individual is absent from Alaska for more than 180 days during the qualifying year, for two years in a row, that individual must prove they were physically present in Alaska for at least 72 consecutive hours during the prior two years.”¹⁴ The Division then told Mr. W the type of information that would be acceptable:

Please provide:

1. Documentation, in your name only, that verifies you were physically present in Alaska for at least 72 consecutive hours during the calendar year 2022 or 2023. The documentation you provide must be in your name only and clearly show the month, day and year. Acceptable documentation: Boarding passes, airline mileage plan statements, hotel receipts, rental car receipts, pay stubs from an Alaskan employer, letter from Alaska employer verifying dates working in Alaska on employer letterhead; medical records showing treatment or hospitalization in Alaska, and credit card statements in your name only. This is required of all individuals who are absent from [sic] for more than 180 days for two years in a row. Travel itineraries are NOT acceptable as they can be changed and not proof that travel was completed.¹⁵

The email stated the necessary information was due not later than April 19, 2025.¹⁶ Mr. W did not respond to the Division.

On May 14, 2025, the Division notified Mr. W he would not receive his 2024 PFD. The basis for the denial was failure to document his present in Alaska for at least 72 consecutive hours in 2022 or 2023, and his failure to respond to the Division’s request for additional information.¹⁷

⁹ Exhibit 3 at 1.

¹⁰ *Id.* at 2.

¹¹ *Id.*

¹² *Id.* at 3.

¹³ Exhibit 4.

¹⁴ *Id.*

¹⁵ Exhibit 4.

¹⁶ *Id.*

¹⁷ Exhibit 5 at 1.

The Division’s notice provided Mr. W an opportunity to request a formal appeal within 30 days of the letter, and enclosed a form that could be used to request that appeal.¹⁸

Mr. W requested a formal appeal on June 9, 2025, indicating he wished the formal appeal to be by written correspondence.¹⁹ In his request for a formal appeal, Mr. W stated, “I was employed by Employment A during the summers of 2022 and 2023 in Anchorage, Alaska. Documentation will be provided.”²⁰

On June 23, 2025, Mr. W submitted W-2 forms for 2022 and 2023, all of which stated he was employed by:

Employment A
Address B²¹

The next day, June 24, 2025, the Division emailed Mr. W stating this information was insufficient because “they do not show the dates you were physically in Alaska.”²² The email went on to state the types of information that would be acceptable, essentially repeating what the Division told Mr. W in Exhibit 4.

This appeal to the Office of Administrative Hearings followed.

III. Discussion

In order to receive a PFD, Alaska law requires that the applicant “has been physically present in the state for at least 72 consecutive hours at some time during the prior two years before the current dividend year.”²³ The Department of Revenue may waive the 72 hour requirement if the applicant, or their spouse or dependent, are in the armed forces during a time of national military emergency, or if the applicant is a ward of the state located outside of Alaska for purposes of medical or behavioral treatment.²⁴ Neither of these apply to Mr. W.

The Department of Revenue has adopted regulations explaining how an applicant shows they were present in Alaska for 72 consecutive hours. Such proof might include “records or receipts of airlines; ...hotel receipts; traffic citations; affidavits or certifications by adult residents acquainted with or related to the applicant who have personal knowledge of the applicant’s

¹⁸ *Id.* at 2.

¹⁹ Exhibit 6.

²⁰ *Id.* at 2.

²¹ Exhibit 7.

²² Exhibit 8 at 1.

²³ AS 43.23.005(a)(4).

²⁴ AS 43.23.005(f)(1) *and* (f)(2) (emphasis added).

physical present in Alaska [or] other documentation of completed travel that displays this state as the point of origin or destination.”²⁵

The record shows three times where the Division notified Mr. W of acceptable documentation to show his residency, but never told him he could submit affidavits or certifications from adult Alaskans who had knowledge of his presence in Alaska.²⁶ The record shows one occasion where the Division provided Mr. W with 15 AAC 23.173,²⁷ but that quote stopped at subsection (d) and did not include the language from subsection (h) allowing affidavits or certifications. In a request for supplemental briefing, the Division Fair Hearing Representative stated:

15 AAC 23.173(h)(5) could apply to Mr. W’s 2024 PFD application if the Division had received a sworn affidavit from an adult Alaska resident with personal knowledge of Mr. W’s physical presence in Alaska during 2022 or 2023. The affidavit would need to include the exact dates Mr. W was physically present in Alaska and would need to be notarized. The Division would need to see said affidavit to verify it was sufficient.²⁸

The Alaska Supreme Court has ruled many times that reliance on inaccurate or incomplete information from a state agency may be grounds to reverse an agency’s later action that is contrary to the inaccurate/incomplete information.²⁹ This doctrine is called “equitable estoppel.” Alaska uses a four-part test to determine whether equitable estoppel may be used against a state agency: (1) a government body asserts a position by conduct or words; (2) the private party reasonably relies on the government’s assertions; (3) the private party is prejudiced by their reasonable reliance on the government’s assertions; and (4) the estoppel serves the interests of justice so as to limit public injury.³⁰ In *Crum v. Stalnaker*, a retiring teacher was given information about claiming unused sick leave in addition to large amount of other retirement information, but the teacher was not given the form to claim unused sick leave in his retirement benefits. The Teacher’s Retirement System refused to give him credit for 183 days of unused sick

²⁵ 15 AAC 23.173(h)(1)-(6).

²⁶ Exhibit 4 (Informal Conference by E-Mail), Exhibit 5 (Informal Appeal Decision), and Exhibit 8 (Formal Conference by E-Mail).

²⁷ Exhibit 5 at 3-4.

²⁸ Supplemental Briefing Response.

²⁹ , *Municipality of Anchorage v. Schneider*, 685 P.2d 94, 98 (Alaska 1984), *Grunert v. State*, 753 P.2d 118, 122 (Alaska 1987), *Wassink v. Hawkins*, 763 P.2d 971, 975 (Alaska 1988), *Veco Int’l, Inc. v. Alaska Public Offices Comm’n*, 753 P.2d 703, 709-710 (Alaska 1988), *Crum v. Stalnaker*, 936 P.2d 1254 (Alaska 1997), *Alaska Trademark Shellfish, LLC v. State*, 91 P.3d 9543, 960 (Alaska 2004), *Hidden Heights Assisted Living, Inc. v. State*, 222 P.3d 258, 269 (Alaska 2009).

³⁰ *Crum v. Stalnaker*, 936 P.2d 1254, 1256 (Alaska 1997).

leave because he did not fill out the necessary form. The court ruled that the agency's omitting the form for unused sick leave justified applying equitable estoppel against the state: the agency's omission of a particular form was an assertion by the agency, the teacher not filling out the form was reasonable reliance by the teacher, the teacher was prejudiced by not being compensated for unused sick leave, and applying estoppel would prevent the teacher from an unjust result that would not harm the public.³¹

The *Crum* analysis applies here. The Division gave Mr. W incomplete information on the ways he could establish residency. If he could have provided an affidavit or verification, he relied to his detriment on the incomplete information. He suffered prejudice by not receiving a 2024 PFD. And, if he could provide such an affidavit, allowing Mr. W to receive a 2024 PFD prevents an injustice at essentially no public expense.³² It is not certain that Mr. W could supply such affidavits or whether any affidavit Mr. W might supply would be sufficient to establish his presence in Alaska for 72 hours. But he was not advised of that option. Therefore, the appropriate result here is to provide Mr. W with 30 days from the effective date of this order to supply an affidavit or verification that is sufficient under 15 AAC 23.173(h)(5) to establish his presence in Alaska for 72 consecutive hours in 2022-23.³³

IV. Conclusion

For the foregoing reasons, this matter is REMANDED to the Division to provide Mr. W with 30 days to supply an affidavit or verification from an adult Alaskan to establish his presence in Alaska for 72 consecutive hours in 2022-23.

DATED: September 25, 2025.

By: Signed
Robert H. Schmidt
Administrative Law Judge

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

³¹ *Id.* at 1258-59.

³² There may be the expense of paying Mr. W his 2024 PFD. In *Crum* the Alaska Supreme Court accepted that paying a 21-year teacher 183 days of unused sick leave caused "no harm to the public." 936 P.2d at 1258.

³³ Mr. W may not use this 30-day period for any other documentation other than an affidavit or verification under 15 AAC 23.173(h)(5).